

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS

ACTION/AGENDA SUMMARY

DEPT: General Services Agency

BOARD AGENDA # \*B-9

Urgent ☐

Routine ☒

AGENDA DATE April 28, 2015

CEO Concurs with Recommendation YES ☒ NO ☐

4/5 Vote Required YES ☐ NO ☒

(Information Attached)

SUBJECT:

Approval of a Contract with Industrial Electric, Inc. for Electrical Switchgear Replacement and Generator Installation at 801 11<sup>th</sup> Street

STAFF RECOMMENDATIONS:

1. Approve a contract with Industrial Electric, Inc. in the amount of \$388,850.00 for electrical switchgear replacement and generator installation at 801 11<sup>th</sup> Street.
2. Authorize the County Purchasing Agent to execute the contract with Industrial Electric, Inc., and to sign any necessary documents.
3. Authorize the Purchasing Agent to execute change orders in accordance with Public Contract Code Section 20142.

FISCAL IMPACT:

The total contract cost to replace the electrical switchgear and install a new generator is \$388,850.00. Funds to support this project are available in the Deferred Maintenance program and have been included in the Plant Acquisition budget approved by the Board as part of the Fiscal Year 2014-2015 Final Budget. There are sufficient funds in the Plant Acquisition budget to support the Deferred Maintenance program, and no budget adjustments are requested.

BOARD ACTION AS FOLLOWS:

No. 2015-185

On motion of Supervisor De Martini, Seconded by Supervisor Chiesa

and approved by the following vote,

Ayes: Supervisors: O'Brien, Chiesa, Monteith, De Martini, and Chairman Withrow

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) X Approved as recommended

2)        Denied

3)        Approved as amended

4)        Other:

MOTION:

ATTEST:

  
CHRISTINE FERRARO TALLMAN, Clerk

File No.

## **DISCUSSION:**

The building located at 801 11<sup>th</sup> Street is a County-owned facility, housing Adult Probation, Sheriff's Office – Civil Division and Strategic Business Technology. The existing electrical service and switchgear is both outdated and potentially overloaded given the current occupancy use of the building.

The existing switchgear and panel, which is used to control and protect electrical equipment, is located in a small electrical closet in the basement. The system is overloaded due to increased use of technology, which was not foreseen when the building was designed in 1960. A new panel and switchgear will need to be installed on the side of the access ramp to the basement.

The existing emergency generator is beyond design-life expectancy, and is not reliable in the event of an emergency. It is neither feasible to refurbish the existing generator, nor is it able to sufficiently power the emergency load requirements for the building. A new, properly sized emergency generator is needed.

An equipment pad is required to properly mount the new generator. A new concrete pad, which meets all code requirements, will be built on the side of the ramp heading into the basement from 11<sup>th</sup> Street.

During installation, GSA will work with the departments, the Gallo Center, and Modesto Irrigation District to, temporarily, shut down electric utility for a minimum twelve-hour window on a Saturday or Sunday, as appropriate for all parties.

The General Services Agency Purchasing Division (GSA) conducted an Invitation for Bids (Bid) to select a vendor to provide electrical switchgear replacement and generator installation services. GSA posted Bid #15-05 MP for switchgear replacement and generator installation (801 11<sup>th</sup> Street, Modesto, CA) on February 11, 2015, which set forth the scope of work for this project. The Bid invitation was sent to 79 vendors, seven of whom downloaded the BID documents. On February 20, 2015 a mandatory bid walk was held, with eight vendors in attendance. A second non-mandatory bid walk was held March 13, 2015 with two vendors in attendance.

The Bid closed on March 26, 2015 and GSA received responses from three vendors, listed below:

- Industrial Electric, Inc., of Modesto, CA;
- GA Technical Services, Inc. of Rancho Cucamonga, CA; and
- All Power, Inc. of Beale AFB, CA.

Approval of a Contract with Industrial Electric, Inc. for Electrical Switchgear Replacement and Generator Installation at 801 11<sup>th</sup> Street  
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Each bidder was considered responsive and responsible. Base pricing was used as the basis for comparison. A summary of the pricing submitted by each bidder is shown in the table below:

Vendor	Bid for Work to be Performed After Normal Business Hours:
Industrial Electric	\$388,850.00
GA Technical	\$415,000.00
All Power	\$460,966.00

Industrial Electric, Inc. is the lowest responsive, responsible bidder. On April 1, 2015, GSA issued a Notice of Intended Award to Industrial Electric, Inc. and Notices of Non-Award to the other bidders. No letters of protest were received during the five-day protest period of the bid process.

If approved, the agreement will be effective upon the issuance of a Notice to Proceed (Notice). GSA anticipates this project will be completed within 75 working days from the date the Notice is issued.

**POLICY ISSUE:**

Approval of this item supports the Board of Supervisors' priority of Efficient Delivery of Public Services by providing cost-effective repairs for County departments.

**STAFFING IMPACT:**

Existing GSA staff will manage the contract for the electrical switchgear replacement and generator installation services.

**CONTACT:**

Keith D. Boggs, GSA Director/Purchasing Agent (209) 652-1514  
Scott Shook, Facilities Maintenance Manager. (209) 652-0480

**ATTACHMENT:**

Agreement

**AGREEMENT**  
**(Public Works of Improvement)**

This Agreement, made this \_\_\_\_\_, 2015, by and between MODESTO INDUSTRIAL ELECTRICAL CO., INC. dba INDUSTRIAL ELECTRICAL CO., INC. a California Corporation, (the "Contractor") and the COUNTY OF STANISLAUS (the "County").

**ARTICLE I**

The Contractor will provide all the materials, tools, equipment and labor and perform all the work necessary to complete in a good workmanlike manner:

**BID NAME: Electrical Switchgear Replacement and Generator Installation**  
**BID NO.: 15-05 MP**

As set forth in the Bid of the Contractor and in accordance with the above-noted Invitation for Bid and related Notice to Bidders, Information for Bidders, General Conditions, plans and specifications, bonds, addenda and any documents particularly required or provided, all of which are attached hereto and made a part hereof. All of the foregoing documents, together with this Agreement, comprise the contract.

**ARTICLE II**

All of the work included in this contract shall be performed under the direction of the County, and in conformity with the true construction and meaning of the Contract, as determined solely by the County.

**ARTICLE III**

No alterations in the work shall be made except upon written order of the County. The amount to be paid by the County or to be deducted from the Contract price, by virtue of such alterations, shall be stated in said order and shall be approved in writing by the County and the Contractor.

Changes, additions, and alterations in the work, which do not exceed \$500.00, may be ordered in writing by the Purchasing Agent of the County of Stanislaus. All other changes, additions, or alterations in the work shall be by order of the Stanislaus County Purchasing Division of the County of Stanislaus.

**ARTICLE IV**

The Contractor shall commence the work within **ten (10)** working days after the date specified in the Notice to Proceed given with respect to each Project identified in Article V below, and shall prosecute said work in a prompt, diligent and workmanlike manner. The Contractor shall complete all work within

**Seventy-five (75) Working Days**

of the date of the Notice to Proceed issued for such Project, unless extension or suspension of the work is agreed to in writing by the County. Time is of the essence in this Agreement.

**ARTICLE V**

The County agrees to pay and the Contractor agrees to accept in full payment for the work:

**BID NAME ESTIMATE**

PROJECT	UNIT OF MEASURE	AFTER NORMAL HRS BASE PRICE	PROJECT TOTAL
1	Electrical Switchgear Replacement and Generator Installation at 801 11 <sup>th</sup> Street Complete project scope of work: <b>AFTER BUSINESS HOURS</b>	1 EA.	\$388,850.00

CONTRACT TOTAL    \$388,850.00

The County shall pay to the Contractor in due course and at the usual time for payment of County obligations after the last day of each month, ninety-five percent (95%) of the cost of the work completed and material properly stored on the job site, which cost shall be determined by the County. A final payment of five percent (5%) of the contract price shall be due the Contractor 35 days after acceptance of the work, provided that the Contractor

furnishes to the County satisfactory evidence that all obligations for labor and materials have been satisfactorily fulfilled within the said 35 day period, and further provided that no payment shall be construed to be an acceptance of defective work or improper materials.

Except as otherwise prohibited by law, the Contractor may elect to receive all payments due under the contract pursuant to Section 2.15 of the General Conditions of the contract documents without any retention. If the Contractor so elects, he shall deposit with the County securities with a value equal to the monies which would otherwise be withheld by the County. Said securities shall be as provided in Section 22300 of the Public Contract Code and shall be approved by the County as to both sufficiency and form.

#### ARTICLE VI

Prior to commencing the work, the Contractor shall file a bond issued by a surety company, approved by the County, and in the form acceptable to the County in the amount of one hundred percent (100%) of the contract price for the faithful payment and satisfaction of all lawful claims of all persons for labor and materials furnished in the prosecution of the contract work. Prior to commencing the work, the Contractor shall file a bond issued by a surety company, approved by the County, and in the form acceptable to the County in the amount of one hundred percent (100%) of the contract price to guarantee the faithful performance of the contract.

#### ARTICLE VII

The Contractor shall take out, and maintain during the life of the contract, insurance policies as described in Section 2.16 of the General Conditions of the contract documents.

#### ARTICLE VIII

The Contractor shall indemnify, defend, and save harmless Stanislaus County and all officers and employees thereof connected with the work from all claims, suits, or actions of every name, kind, and description, brought forth or on account of injuries to or death of any person, including, but not limited to, workmen and the public, or damage to property resulting from the performance of the contract, except as otherwise provided by statute. The duty of the Contractor to indemnify and save harmless includes the duties to defend as set forth in Section 2778 of the Civil Code. The Contractor waives any and all rights to any type of express or implied indemnity against the County, its officers or employees.

#### ARTICLE IX

When the work is completed and ready for final inspection, the Contractor shall notify the County which shall make such final inspection within five (5) days after notice.

If the County shall approve the work and find that the work is complete and ready for acceptance and shall accept the same, the final payment of the contract price shall be due as provided in Article V, hereof.

#### ARTICLE X

The Contractor shall comply with all the provisions of state and local laws relating to contracts for the prosecution of public works, and Sections 2.13, 2.18, 2.19, 2.20, 2.21, and 2.22 of the General Conditions are hereby referred to and incorporated herein as if fully set forth. Pursuant to law, the County has ascertained the general prevailing rate of per diem wages in the locality of the work for each craft or type of workman required for performance of the contract, which rates are as stated in the Invitation to Bidders, and the Contractor shall be required to pay not less than said prevailing rates.

#### ARTICLE XI

Whenever any act is directed to be done or notice directed to be given by or to the County hereof, the same may be done or given by or to the Director of the Department of Public Works.

#### ARTICLE XII

The Contractor shall not assign the contract or sublet it as a whole without the written consent of the County, nor shall the Contractor assign any monies due or to become due to him hereunder without the previous written consent of the County. This contract shall be binding upon the parties hereto, their heirs, successors, assigns, subcontractors, and legal representatives.

ARTICLE XIII

Any alteration or alterations made in this contract, or any part hereof, shall not operate to release any surety from liability of any bond given pursuant to the provisions of this contract and the consent of such surety to such alteration or alterations is hereby given, the surety expressly waiving hereby the provisions of Section 2819 of the Civil Code.

ARTICLE XIV

Neither the final certificate nor payment, nor any provision of the related documents, shall relieve the Contractor of responsibility for faulty workmanship or materials, and less otherwise specified, he shall remedy any defects due thereto and pay for any damage to other work resulting therefrom which shall appear within a period of one (1) year from the date of filing Notice of Completion. The County shall give notice of observed defects with reasonable promptness. All questions arising under this Article shall be decided by the Director of the Department of Public Works.

COUNTY OF STANISLAUS

By: [Signature]  
Keith D. Boggs, Assistant Executive Officer,  
GSA Director/Purchasing Agent

"County"

APPROVED: \_\_\_\_\_, 2015  
BOS Resolution # \_\_\_\_\_

APPROVED AS TO CONTENT:  
General Services Agency - Facilities Maintenance Division

By: [Signature]  
Scott Shook, Facilities Maintenance Manager

APPROVED AS TO FORM:  
John P. Doering, County Counsel

By: \_\_\_\_\_  
Deputy County Counsel

CONTRACTOR

By: [Signature]  
Name: JEREMY HODGE  
Title: PROJECT MANAGER

"Contractor"

NOTE: The Contractor's signature must be acknowledged before a Notary Public Contractor.

State of California }  
County of Stanislaus } SS.

On this \_\_\_\_\_ day of \_\_\_\_\_, 2015, before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity and that by his/her signature on the instrument the person or entity upon behalf of which the person acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

(SEAL)

*See attached Acknowledgement*

\_\_\_\_\_  
Notary's Signature

# CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }

County of Stanislaus }

On April 16, 2015 before me, Melissa A Parikh Notary Public,  
(Here insert name and title of the officer)

personally appeared Jeremy John Hodge  
who proved to me on the basis of satisfactory evidence to be the person(~~s~~) whose name(~~s~~) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(~~ies~~), and that by his/~~her/their~~ signature(~~s~~) on the instrument the person(~~s~~), or the entity upon behalf of which the person(~~s~~) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Melissa A Parikh

Notary Public Signature

(Notary Public Seal)



## ADDITIONAL OPTIONAL INFORMATION

### DESCRIPTION OF THE ATTACHED DOCUMENT

Agreement- Public works  
Electrical Switchgear Replacement

(Title or description of attached document)

and Generator Installation

(Title or description of attached document continued)

Number of Pages 24 Document Date 04/16/15

### CAPACITY CLAIMED BY THE SIGNER

- ☒ Individual (s)  
☐ Corporate Officer

(Title)

- ☐ Partner(s)  
☐ Attorney-in-Fact  
☐ Trustee(s)  
☐ Other \_\_\_\_\_

## INSTRUCTIONS FOR COMPLETING THIS FORM

*This form complies with current California statutes regarding notary wording and, if needed, should be completed and attached to the document. Acknowledgments from other states may be completed for documents being sent to that state so long as the wording does not require the California notary to violate California notary law.*

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he/she/they~~, is /are ) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
  - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
  - ❖ Indicate title or type of attached document, number of pages and date.
  - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.

**STANISLAUS COUNTY GSA PURCHASING DIVISION  
FOR GSA FACILITIES MAINTENANCE DIVISION  
Bid #15-05 MP**

**PART 1 – TECHNICAL SPECIFICATIONS**

**Electrical Switchgear Replacement and Generator Installation** located at the 801 11<sup>th</sup> Street, Modesto, California

**1.01 Scope of Work –**

Stanislaus County Adult Probation and Strategic Business Solutions, located at 801 11<sup>th</sup> Street in Modesto, California currently has an existing electrical service and switchgear that is both outdated and potentially overloaded given the current occupancy use of the building.,

Switchgear and Panel The existing switchgear is located in a small electrical closet in the basement. This panel is overloaded and a new panel and switchgear will need to be installed on the side of the access ramp to the basement. A picture showing where the switchgear needs to be installed is provided in the bid documents.

Generator The existing building was built in 1960 and had an emergency generator that has fallen into disrepair. It is no longer feasible to rehabilitate the generator nor will the current generator sufficiently power the emergency load requirements for the building. A new, properly-sized emergency generator will need to be installed.

Equipment Pad There currently is no equipment pad that the new switchgear or generator can sit on. A new concrete pad that will meet all code requirements will need to be built on the side of the ramp heading into the basement off of 11<sup>th</sup> Street.

SECTION 26 00 10  
General Provisions  
SECTION 26 00 10  
GENERAL PROVISIONS  
PART 1 GENERAL

**1.1 DESCRIPTION AND RELATED WORK**

A. This section applies to all Division 26 and is part of all other Division 26 sections.

B. Index of Electrical Specifications:

26 00 10 General Provisions  
26 00 20 Basic Materials & Methods  
26 05 19 Wire & Cable  
26 05 23 Automatic Transfer Switches  
26 05 26 Grounding  
26 05 33 Conduit & Fittings  
26 05 73 Overcurrent Protection  
26 22 00 Dry Type Distribution Transformers  
26 24 00 Electric Service and Distribution  
26 24 16 Panelboards  
26 24 19 Motor Starters  
26 27 26 Wiring Devices  
26 28 16 Disconnects  
26 28 26 Pull & Junction Boxes  
26 32 13 Diesel Engine Generator

**1.2 SCOPE**

A. Provide all labor, materials, equipment and services required for the complete installation, checkout and startup of all systems shown and specified.

B. The general extent of the electrical work is shown on the electrical drawings, mechanical, plumbing and architectural drawings, and includes, but is not limited to the following items:

1. Power distribution system, including main switchboard, distribution switchboards, panels, feeders, transformers, ground system, and branch circuits including wiring devices.



2. Emergency power distribution system including new engine generator set, auto transfer switch, distribution equipment, panels, feeders, transformers, ground system, and branch circuit wiring including wiring devices.
3. Furnish and install lighting fixtures, lamps, and associated hardware and finishes to make complete and operational assemblies.
4. Raceway system and terminal boards for data, cable television, and telephone cabling.
5. Connection of all motors, controllers, and control equipment for air-conditioning and plumbing systems, and the furnishing and complete installation of all wire, receptacles, conduit, final connections, and fittings required therefore. Unless indicated otherwise, all motors required for these systems will be furnished by others.
6. Motor starters, disconnect switches, installation of starters, connections of motors, and all power and control circuits and wiring for mechanical and plumbing equipment.
7. Trenching, excavation, backfill, and compaction as required by work under Division 26.
8. Branch circuits and outlets for light fixtures.
9. Cutting, patching, caulking, and core boring for all penetrations required for electrical work.
10. Hangers, supports, anchors, etc., necessary for the electrical work.
11. As-Built electrical drawings.
12. Concrete work which is part of the electrical installation.
13. Site electrical work as indicated on drawings.
14. All electrical work shown as by Division 26 on mechanical, plumbing, and security electronics drawings or in Division 22 and Division 27 specifications is a part of this contract.
15. Temporary power equipment and connections.

C. Where the work of several crafts is involved, coordinate all related work to provide each system in complete and in proper operating order.

D. Cooperate with all others involved in the project, with due regard to their work, to promote rapid completion of the entire project.

E. Local Conditions: The Contractor shall thoroughly familiarize himself with the work as well as the local conditions under which the work is to be performed. Schedule work with regard to seasons, weather, climatic conditions, and all other local conditions which may affect the progress and quality of the work.

### 1.3 CODES AND STANDARDS

A. Codes: Perform all work in strict accordance with all applicable national, state, and local codes; including, but not limited to, the latest legally enacted editions of the following noted requirements:

1. National Electric Code – NEC
2. ANSI-C2, National Electrical Safety Code – NESC
3. Uniform Building Code – UBC
4. California Fire Code – CFC

B. Standards: Reference to the following standards infers that installation, equipment, and material shall be within the limits for which it was designed, tested, and approved, in conformance with the current publications and standards of the following organizations:

1. American National Standards Institute – ANSI
2. American Society for Testing and Materials – ASTM
3. American Society of Heating Refrigerating and Air Conditioning Engineers – ASHRAE (Standard 90-75)
4. Institute of Electrical and Electronics Engineers- IEEE
5. Insulated Cable Engineers Association – ICEA
6. National Electrical Contractors Association – NECA
7. National Electrical Manufacturers' Association – NEMA
8. National Fire Protection Association - NFPA
9. Underwriters' Laboratories – UL

C. Each type of material shall be of the same manufacturer and quality throughout the work.

### 1.4 SPECIFICATION TERMINOLOGY

A. Streamlining: In many instances, the products, reference standards, and other itemized specifications have been listed without verbiage. In these cases, it is implied that the Contractor shall provide the products and perform in accordance with the reference listed.

B. "Provide" means furnish all products, labor, sub-contracts, and appurtenances required, and install to a complete and properly operating, finished condition.

C. "Furnish" means to purchase material as shown and specified, and cart the material to an approved location at the site or elsewhere as noted or agreed, to be installed by supporting crafts.

D. "Install" means to set in place and connect, ready for use and in complete and properly operating finished condition, material that has been furnished.

E. "Rough-in and connect" means provide an appropriate system connection such as conduit with junction boxes, wiring, switches, disconnects, etc., and all wiring connections. Equipment furnished is received, uncrated, assembled and set in place under the Division in which it is specified.

F. "Accessible" means arranged so that an appropriately dressed person, 6'-2" tall, weighing 250pounds, may approach the area in question with the tools and products necessary for the work intended, and may then position himself to properly and safely perform the task to be accomplished, without disassembly or damage to the surrounding installation.

G. "Serviceable" means arranged so that the component or product in question may be properly removed and replaced without disassembly, destruction or damage to the surrounding installation.

H. "Product" is a generic term which includes materials, equipment, fixtures, and any physical item used on the project.

#### 1.5 WORKMANSHIP SUPERVISION

A. All workmanship shall be first-class and carried out in a manner satisfactory to and approved by the County Engineer or designated representative.

B. This Contractor shall personally, or through an authorized and competent representative, constantly supervise the work and so far as possible, keep the same foreman and workmen on the job throughout.

#### 1.6 CONFERENCE WITH OWNER

A. Confer with the Owners representative to confirm exact locations, mounting heights, and arrangements of all finish work prior to roughing in. Minor relocations and rearrangements of the work requested at this time shall be included at no additional cost to the Contract; this includes adjusting outlets to suit equipment connection point requirements, splash back height of counters, etc.

#### 1.7 DRAWINGS, SPECIFICATIONS AND SYMBOLS

A. The drawings and specifications are complementary; what is shown on one is as binding as if called for in both. Do not scale the drawings. Locations of devices, fixtures and equipment are approximate unless dimensioned. Use Architectural drawings to verify exact locations of doors, partitions, and similar features.

B. The drawings are partly diagrammatic and do not show precise routing of conduits or exact locations of all products, and may not show in minute detail all features of the installation; however, provide all systems complete and in proper operating order.

C. Drawing symbols used for basic materials, equipment, and methods are commonly used by the industry and should be universally understood. Special items are identified by a supplementary list of graphical illustrations, or called for on the drawings or in the specifications.

D. Inspect the site and verify all measurements and conditions and be responsible for the correctness of same.

E. Any errors or omissions of detail in either the drawings or the specifications shall not relieve the Contractor from correctly installing all materials necessary for complete and operational electrical systems.

#### 1.8 SAFETY AND INDEMNITY

A. The Contractor shall be responsible for implementing, maintaining and supervising all necessary safety precautions which will ensure against injury to persons or damage to property as a result of any of his work, tools or equipment on or off the project, before, during or after normal work hours. No drawing review, construction review or any other act or service rendered by the Owner, Architect, their employees or consultants shall be construed to approve or judge upon the adequacy of the Contractor's safety measures.

#### 1.9 PRODUCT AND SYSTEM SUBMITTALS

A. Submittals: Provide submittals for all products in accordance with Appendix B, Required Submittal List to demonstrate compliance with the requirements of the project. Submittals shall comply with County Standard Construction Specifications, 5-8. Submit data no later than thirty (30) days after award of contract or, in any case, to allow sufficient time for review without delaying construction. Furnish equipment submittals in the manner described elsewhere in these specifications. In addition, include data for review, and organize data, as noted below:

1. Specifications reference and/or drawing reference for which literature is submitted for review with an index, following specifications format, and item by item identification.
2. Manufacturer's name and address, and supplier's name, address and phone number.
3. Catalog designation or model number.
4. Rough-in data and dimensions.

5. Operation characteristics.
  6. Complete customized listing of characteristics required. Indicate whether item is "As Specified" or "Proposed Substitution". Indicate any deviations on submittal. Mark out all non-applicable items. The terminology "As Specified" used without this customized listing is not acceptable.
  7. Wiring diagrams for the specific system.
  8. Coordination data to check protective device.
  9. Working construction drawings (shop drawings).
- B. Submittal Data: Prior to the submission of the required shop drawings, hold a meeting with all of the trades and check the shop drawings for discrepancies, dimensional errors, omissions, contradictions and departures from the contract requirements. The shop drawings shall then be corrected and submitted to the Architect with appropriate notes.
- C. With prior permission from the Engineer, partial submittals will be considered for review provided that they are complete sections, as listed below:
1. Main Switchboard
  2. Distribution Boards
  3. Motor Controls and Disconnects
  4. Raceways, Fittings, and Supports
  5. Panels and Transformers
  6. Wire and Cable
  7. Wiring Devices
  8. Contactors and/or relays
  9. Diesel Generators
  10. Auto Transfer Equipment
- D. Mark submittal literature and shop drawings clearly and bind 8 1/2" x 11" literature in three-hole loose-leaf or spiral-bound binders by individual sets.
- E. Submittal review is for general design and arrangement only and does not relieve the Contractor from any of the requirements of the Contract Documents. Submittals will not be checked for quantity, dimension, fit or proper technical design of manufactured equipment. Where deviations of substitute product or system performance have not been specifically noted in the submittal by the Contractor, provision of a complete and satisfactory working installation of equal quality to system specified is the responsibility of the Contractor.

#### 1.10 SUBSTITUTIONS

- A. Material and equipment has been specified to establish a standard of design and quality.
- B. Submit "submittals" on all substituted items in accordance with Division 1 and article above regarding "Submittals".
- C. Only one request for substitution shall be considered on each item of materials or equipment.
- D. Architect reserves the right to require originally specified items.
- E. Acceptance of a substitute is not to be considered a release from the Specifications. Correct any deficiencies in an item, even though approved, at Contractor's expense.
- F. Contractor shall be responsible for installation of approved substitution. He shall make and pay for any changes affected in other trades as a result of a substituted item. No increase in Contract sum shall be allowed.
- G. Failure to comply with any of the above requirements will necessitate that the original specified items be supplied as well as reimburse the Contractor for the dollar amount for loss of scheduled time, trades coordination and work already constructed that may need to be redone or demolished.

#### 1.11 INSPECTION

- A. The Contractor shall cooperate with the Engineer and shall provide assistance at all times for the inspection of the electrical work, remove covers, operate machinery, or perform any reasonable work which, in the opinion of the Engineer, will be necessary to determine the quality or adequacy of the work.
- B. If any material does not conform to these specifications, within three (3) days after being notified by the Architect, remove the materials from the premises.
- C. Work shall not be closed in or covered before inspection and approval by the Owner. Cost of uncovering and making repairs where uninspected work has been closed in shall be burdened by the Contractor.

#### 1.12 PERMITS AND TESTS

- A. Schedule, obtain, and pay for all permits, fees, and/or services required by local authorities and by these specifications.
- B. Request for Tests: Notify the Owner a minimum of 72 hours in advance of tests. In the event the Owner does not witness the test, certify in writing that all specified tests have been made in accordance with the specifications.

- C. Deficiencies: Immediately correct all deficiencies which are evidenced during the tests and repeat tests until system is approved. Do not cover or conceal electrical installations until satisfactory tests are made and approved.
- D. Operating Tests: Upon request from the Owner or Engineer, place the entire electrical installation and/or any portion thereof, in operation to demonstrate satisfactory operation.

### 1.13 IDENTIFICATION

#### A. Equipment Labels and Nameplates:

1. Provide rigid engraved labels and nameplates of laminated black plastic 1/16-inch thick with white letters on a black background. Label emergency equipment red with white letters.
  - a. Securely attach labels with two oval-head screws, minimum, per label.
  - b. Temporary or pen marking is not permitted on equipment. Repaint trims, housings, etc. where markings cannot be readily removed. Refinish defaced finishes.
  - c. No labeling abbreviations will be permitted without prior approval.
2. Label and Nameplate Locations:
  - a. Provide \_\_"(insert size in inches here?) minimum height letters on following equipment:
    - 1) Secondary feeder breakers in distribution equipment. Designation as required by load served.
    - 2) Special equipment housed in cabinets, as designated on plans, on outside of door.
    - 3) Panelboards, switchboards, as designated on plans, on outside of door.
    - 4) Distribution transformers.
    - 5) Disconnects and starters for motors or fixed appliances. (Include item designation and branch feeder number, i.e., FAN #4, MCC-2).
    - 6) Designated electrical equipment.
  - b. Provide \_\_" minimum height, engraved device plates on switches and receptacles where item controlled is not visible from the switch, or as noted on drawings.
  - c. Provide \_\_" minimum height letters on lighting control relays, dimmer controls and remote lighting control equipment.
  - d. External Power Sources: Provide \_\_" white letters on red background on all starters or controllers that receive power from an external source that is not de-energized by operating the associated disconnecting means.

B. Branch Circuit Panelboard Directories: Provide neatly-typed schedule (odd numbered circuits on left side even on right side) under plastic jacket or protective cover to protect the schedule from damage or dirt. Securely mount on inside face of panelboard door. Define briefly, but accurately, nature of connected load (i.e., Lighting Room 102, Receptacles, Boiler Room, etc.) as approved. Sequentially numbered schedules shall not be used.

C. Empty Conduits: Provide tags with typed description of purpose, and location of opposite end, wired to each end of conduits provided for future equipment.

D. Conduits: Mark all conduits entering or leaving panelboards with indelible black magic marker with the circuit numbers of the circuits contained inside.

E. Junction Boxes: Mark the circuit numbers of wiring on all junction boxes with sheet steel covers. Mark with indelible black marker. On exposed junction boxes in public areas, mark on inside of cover.

### 1.14 RECORD DRAWINGS

A. In addition to other requirements, mark up a clean set of drawings as the work progresses, to show the dimensioned location and routing of all electrical work which will become permanently concealed. Show routing and location of items cast in concrete or buried underground. Show routing of work in permanently concealed blind spaces within the building. Show complete routing and sizing of any significant revisions to the systems shown.

B. Maintain "record document" drawings in an up-to-date fashion in conjunction with the actual progress of installation. Accurate progress mark-ups shall be available on-site for examination by the Architect or Electrical Engineer at all times.

C. Provide record drawings in accordance with County Standard Construction Specification.

D. Prepare wiring diagrams on reproducible media for all individual special systems as installed. Identify all components and show all wire and terminal numbers and connections.

E. At completion of project, deliver these drawings to the Architect and obtain written receipt.

### 1.15 OPERATING INSTRUCTIONS

A. Prior to final acceptance, instruct an authorized representative of the Owner for eight (8) hours on the proper operation and maintenance of all electrical systems and equipment under this contract. This requirement is for several systems, and is in addition to all special training specified in other sections. Make available a qualified technician for each component of the installation for this instruction. Give these operating instructions after the

operation and maintenance manuals have been furnished to the Owner. Submit written certification, signed by the Contractor and an authorized representative of the Owner, that this has been completed.

#### 1.16 OPERATION AND MAINTENANCE MANUALS

A. Provide Operation and Maintenance Manuals in the manner described elsewhere in these specifications. In addition, organize manual and include data and narrative as noted below. Bind each manual in a hard-backed loose-leaf binder.

B. Provide a separate chapter for each section of the electrical specifications with sub-chapters for each class of equipment or system. Provide a table of contents for each chapter, and each major item in each chapter, to indicate the page number of each. Label all pages to assure correct placement in manual. Identify each piece of equipment with its associated specification description.

C. Operating Sequence Narrative:

1. In each chapter, describe the procedures necessary for personnel to operate the system and equipment covered in that chapter.
2. Describe procedures for start-up, operation, emergency operation and shutdown of each system. If a particular sequence is required, give step-by-step instructions in that order.
3. Describe all seasonal adjustments which should be accomplished for each system.
4. Provide the above descriptions in typewritten, simple outline, narrative form.

D. Maintenance Instructions:

1. Provide complete information for preventive maintenance for each product, including recommended frequency of performance for each preventive maintenance task.
2. Provide instructions for minor repair or adjustments required for preventive maintenance.
3. Provide all information of a maintenance nature covering warranty items, etc.
4. Provide complete information data for all the spare and replacement parts for each product and system. Properly identify each part by part number and manufacturer.

E. Manufacturer's Brochures: Include manufacturers' descriptive literature covering all products used in each system, together with illustrations, exploded views and renewal parts lists.

Highlight all applicable items and instructions, or mark-out non-applicable items.

F. Shop Drawings: Provide a copy of all corrected, approved shop drawings for the project with the manufacturers' brochures or properly identified in a separate subsection.

G. Operation and Maintenance Manuals shall be fully corrected to include review comments prior to final submission to the Owner.

#### 1.17 GUARANTEE

A. The guarantee provision of this specification requires prompt replacement of defective equipment, materials, products, or workmanship that may occur within two years of completion. This includes, but is not limited to, all work required to restore or replace the defective items and to make necessary adjustments to the entire installation as required to provide safe, proper operation.

B. This guarantee period shall begin on the day the completed installation is released for full use by the Owner, and shall be a date mutually agreeable to the Owner and Contractor. Any item released for use to the Owner prior to full release, shall have its guarantee period start the day that particular item is released for use by the Owner, if the Contractor secures from the Owner written authorization for the guarantee for the particular item or system to begin prior to completion of the project. If written authorization is not obtained, the guarantee shall begin upon the date of full use by the Owner, or as otherwise agreed in writing between the Owner and Contractor.

C. All extending warranties required to be furnished on specific items by this contract shall be delivered to the Owner prior to completion of the project.

#### 1.18 PROJECT COMPLETION AND DEMONSTRATION

A. Tests: During final inspection, conduct operating tests for approval. Demonstrate installation to operate satisfactorily in accordance with requirements of Contract Documents. Should any portion of installation fail to meet requirements of Contract Documents, repair or replace items failing to meet requirements until items can be demonstrated to comply. Have instruments available for measuring light intensities, voltage and current values and for the demonstration of continuity, grounds, or open circuit conditions. Furnish personnel to assist in taking measurements and making tests. In the event that systems are not complete and fully operational at the time of final inspection, all costs of any subsequent inspections shall be borne by the CONTRACTOR at no additional cost to the Owner.

B. Certificate of Completion: Submit at the time of request for final inspection, a complete letter in the following format:

I, \_\_\_\_\_ (Name), of \_\_\_\_\_ (Firm), certify that the electrical work is complete in accordance with Contract Plans and Specifications, and authorized change orders (copies of which are attached hereto) and will be ready for final inspection as of \_\_\_\_\_ (Date). I further certify that the following Specifications requirements have been fulfilled:

1. Megger readings performed \_\_\_\_\_ (Date).
2. Operating manuals completed and instruction of operating personnel performed, \_\_\_\_\_ (Date). \_\_\_\_\_ (Signed) Owner's Representative.
3. Record document drawings up-to-date, accurate and ready to deliver to Architect.
4. Emergency systems tested and fully operational.
5. Lighting Control System tested and fully operational.
6. Air conditioning systems tested and fully operational.
7. All other tests required by Specifications have been performed.
8. All specified Owner training complete.
9. All systems are fully operational. Project is ready for final inspection.

SIGNED: \_\_\_\_\_ DATE: \_\_\_\_\_

TITLE: \_\_\_\_\_

- 1.19 **Addenda:** Addendum No. 1, Addendum No. 2 and Addendum No. 3 to Bid 15-05 MP are incorporated herein by reference.

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## **2.00 GENERAL CONDITIONS.**

**2.01 OWNER.** The term "Owner", where used herein, shall mean the County of Stanislaus, a political subdivision of the State of California.

**2.02 BOARD.** The term "Board", where used herein, shall mean the Stanislaus County Purchasing Division of the County of Stanislaus, California.

**2.03 ENGINEER.** The Director of Public Works shall supervise and be responsible for the work, and whenever the word "Director" or the word "Engineer" is used herein, it shall mean the Director of the Department of Public Works of the County of Stanislaus, acting either directly or through properly authorized agents, such agents acting within the scope of the particular duties delegated to them.

**2.04 CONTRACTOR.** The term "Contractor", where used herein, shall mean the Contractor to whom the contract for the work described and specified herein has been awarded to by the Board.

**2.05 SUBCONTRACTOR.** The term "Subcontractor", where used herein, includes only those having a direct contract with the Contractor for the work or portion of the work described and specified herein.

**2.06 WORK.** The term "Work", where used herein, includes all labor, materials and any necessary equipment required for complete performance of the contract.

**2.07 CONTRACT DOCUMENTS.** The term "Contract Documents", where used herein, includes the following: The Notice to Bidders, the Instructions to Bidders, the General Conditions, the plans and specifications, the bid, the Agreement, the general bond and insurance certificates. The contract documents are complementary, and what is called for by one shall be as binding as if called for by all.

**2.08 DOCUMENT CLARITY.** The Contractor's attention is directed Government Code section 27361.7, which requires that documents will reproduce readable photographic record:

Whenever the text of a document presented for record may be made out but is not sufficiently legible to reproduce a readable photographic record, the recorder may require the person presenting it for record to substitute a legible original document or to prepare a legible copy of the first document by handwriting or typewriting and attach the same to the original as a part of the document for making the permanent photographic record. The handwritten or typewritten legible copy shall be certified by the party creating the copy under penalty of perjury as being a true copy of the original. As used in this section, the word "text" includes the notary seal, certificates, and other appendages thereto.

**2.09 COMPLETE CONTRACT.** The complete contract consists of all of the contract documents.

**2.10 PLANS AND SPECIFICATIONS.** The term "Plans and Specifications", where used herein, shall mean and include all specifications and provisions of any kind, whether general, detailed or otherwise, relating to the labor, equipment, material or work in the installation thereof, and the plans and drawings, if any, accompanying same which are made a part hereof.

**2.11 AGREEMENT.** The Contractor to whom the work is awarded shall, within eight days after receipt of the contract documents as mailed by the Department of Public Works, enter into an agreement with the owner. The form of agreement is attached herein and made a part of these General Conditions.

**2.12 MATERIAL, LABOR, EQUIPMENT AND OTHER FACILITIES.** Unless otherwise provided, the Contractor shall provide and pay for all materials, labor, water, tools, equipment, lights, power, transportation and other facilities necessary for the execution and completion of the work.

**2.13 PERMITS AND LICENSES.** All permits and licenses necessary for the prosecution of the work shall be secured and paid for by the Contractor, except those secured by Owner and so noted.

**2.14 INSPECTION OF WORK.** A representative of the Owner shall, at all times, have access to the work and the Contractor shall provide proper facilities for such access and for inspection. The Contractor's attention is directed to Government Code Section 1126 and Stanislaus County Department of Public Works regulations wherein the Owner's representative is prohibited from accepting from the Contractor, his employees, and subcontractors any gratuity, gift, service or material of any value or use of equipment or facilities, and agrees to abide by the section and regulations.

**2.15 BONDS.** The Contractor shall furnish and deliver to the Board a surety bond in the amount equal to one hundred percent (100%) of the contract price to guarantee the faithful performance of the contract, and a surety bond in an amount equal to one hundred percent (100%) of the contract price for the faithful payment and satisfaction of all lawful claims of all persons for labor and material furnished and the prosecution of the contract. Such surety bonds shall be issued by a corporation duly and legally licensed to transact surety business in the State of California and approved by the Board. All participating signatures on the bonds shall be notarized.

**2.16 INSURANCE.**

**2.16.1 Scope of Coverage.** Contractor shall take out, and maintain during the life of this Agreement, insurance policies with coverage at least as broad as follows:

(a) General Liability. Comprehensive general liability insurance covering bodily injury, personal injury, property damage, products and completed operations with limits of no less than One Million Dollars (\$1,000,000) per incident or occurrence. If Commercial General Liability Insurance or other form which uses a general aggregate limit, either the general aggregate limit shall apply separately to any act or omission by Contractor under this Agreement or the general aggregate limit shall be twice the required occurrence limit.

(b) Fire Insurance. Builder's Risk Fire Insurance, including Extended Coverage and Vandalism and Malicious Mischief endorsements, jointly in the name of the Owner and the Contractor, such insurance at all times to be of sufficient amount to cover fully all loss or damage to the work under this agreement, resulting from fire and perils covered by the above-referenced endorsements, with limits of not less than one hundred percent of the contract price.

(c) Automobile Liability Insurance. If the Contractor or the Contractor's officers, employees, agents, representatives or subcontractors utilize a motor vehicle in performing any of the work or services under this Agreement, owned/non-owned automobile liability insurance providing combined single limits covering bodily injury, property damage and transportation related pollution liability with limits of no less than One Million Dollars (\$1,000,000) per incident or occurrence.

(d) Workers' Compensation Insurance. Workers' Compensation insurance as required by the California Labor Code. In signing this contract, the Contractor certifies under section 1861 of the Labor Code that the Contractor is aware of the provisions of section 3700 of the Labor Code which requires every employer to be insured against liability for workmen's compensation or to undertake self-insurance in accordance with the provisions of that code, and that the Contractor will comply with such provisions before commencing the performance of the work of this Agreement.

**2.16.2 Deductibles, Self-insured Retentions and Named Insureds.** Any deductibles, self-insured retentions or named insureds must be declared in writing and approved by Owner. At the option of the Owner, either: (a) the insurer shall reduce or eliminate such deductibles, self-insured retentions or named insureds, or (b) the Contractor shall provide a bond, cash or letter of credit guaranteeing payment of the self-insured retention or deductible and payment of any and all costs, losses, related investigations, claim administration and defense expenses.

**2.16.3 Additional Insured.** The Contractor shall provide a specific endorsement to all required insurance policies, except Workers' Compensation insurance and Professional Liability insurance, if any, naming the Owner and its officers, officials and employees as additional insureds regarding: (a) liability arising from or in connection with the performance or omission to perform any term or condition of this Agreement by or on behalf of the Contractor, including the insured's general supervision of the Contractor; (b) services, products and completed operations of the Contractor; (c) premises owned, occupied or used by the Contractor; and (d) automobiles owned, leased, hired or borrowed by the Contractor. For Workers Compensation insurance, the insurance carrier shall agree to waive all rights of subrogation against the Owner and its officers, officials and employees for losses arising from the performance of or the omission to perform any term or condition of this Agreement by the Contractor.

**2.16.4 Primary Insurance.** The Contractor's insurance coverage shall be primary insurance regarding the Owner and Owner's officers, officials and employees. Any insurance or self-insurance maintained by the Owner or Owner's officers, officials and employees shall be excess of the Contractor's insurance and shall not contribute with Contractor's insurance.



**2.16.5 Compliance.** Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Owner or its officers, officials, employees or volunteers.

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

**2.16.7 Notice of Cancellation.** Each insurance policy required by this section shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party or reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to Owner.

**2.16.8 Acceptability of Insurers.** Insurance is to be placed with California admitted insurers (licensed to do business in California) with a current rating by Best's Key Rating Guide of no less than A-:VII.

**2.16.9 Subcontractors.** Contractor shall require that all of its subcontractors are subject to the insurance and indemnity requirements stated herein, or shall include all subcontractors as additional named insureds under its insurance policies.

**2.16.10 Verification of Coverage.** At least ten (10) days prior to the date the Contractor begins performance of its obligations under this Agreement, Contractor shall furnish County with certificates of insurance, and with original endorsements, showing coverage required by this Agreement, including, without limitation, those that verify coverage for subcontractors of the Contractor. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements shall be received and, in County's sole and absolute discretion, approved by County. County reserves the right to require complete copies of all required insurance policies and endorsements, at any time.

**2.16.11 Limitation of Liability.** The limits of insurance described herein shall not limit the liability of the Contractor and Contractor's officers, employees, agents, representatives or subcontractors.

## **2.17 DEFENSE AND INDEMNIFICATION.**

**2.17.1 Contractor Indemnification.** Contractor and its officers, employees, agents, representatives or subcontractors shall defend, indemnify and hold harmless the Owner and its agents, officers and employees from and against all claims, damages, losses, judgments, liabilities, expenses and other costs, including litigation costs and attorney fees, arising out of, resulting from, or in connection with the performance of this Agreement by Contractor or Contractor's officers, employees, agents, representatives or subcontractors. Contractor's obligation to defend, indemnify and hold the Owner and its agents, officers and employees harmless applies to any actual or alleged personal injury, death, or damage or destruction to tangible or intangible property including the loss of use. Contractor's obligation under this paragraph extends to any claim, damage, loss, liability, expense or other cost which is caused in whole or in part, directly or indirectly, by any act or omission of the Contractor and its officers, employees, agents, representatives, subcontractors, suppliers or anyone directly or indirectly employed by any of them or anyone for whose acts or omissions any of them may be liable.

**2.17.2 Effect of Insurance.** Contractor's obligation to defend, indemnify and hold the Owner and its agents, officers and employees harmless under the provisions of this paragraph is not limited to or restricted by any requirement in this Agreement for Contractor to procure and maintain a policy of insurance.

**2.17.3 Owner Indemnification.** To the extent permitted by law, the Owner shall defend, indemnify and hold harmless Contractor and its officers, employees, agents, representatives or subcontractors from and against all claims, damages, losses, judgments, liabilities, expenses and other costs, including litigation costs and attorney's fees, arising out of or resulting from the active negligence or wrongful acts of Owner and its officers or employees.

**2.18 ASSIGNMENT OF CONTRACT.** The Contractor shall not assign the contract or sublet it as a whole without written consent of the owner, nor shall the Contractor assign any monies due or to become due to him hereunder without the written consent of the Owner.

**2.19 EIGHT-HOUR DAY.** The time of service of any laborer, workman, or mechanic employed upon any of the work herein specified is limited and restricted to eight (8) hours during any one calendar day, and 40 hours during any one calendar week, except that work performed by employees of contractors in excess of eight (8) hours per day, and 40 hours during any one week, shall be permitted upon public work upon compensation for all hours worked in excess of eight (8) hours per day and not less than one and one-half (1-1/2) times the basic rate of pay.

The Contractor shall forfeit, as a penalty to the owner \$25.00 for each laborer, workman or mechanic employed in the execution of this contract by him or by any subcontractor under him, upon any public work herein

specified for each calendar day or week during which any laborer, workman or mechanic is required or permitted to labor more than eight (8) hours in any one calendar day or 40 hours in any one calendar week in violation of the provisions of Article 3 of Chapter 1, Part 7, Division 2 of the Labor Code of the State of California, and said sums and amount which shall have been so forfeited pursuant to this paragraph and said provisions of said Labor Code shall be withheld and retained from payment due to the Contractor under this contract, pursuant to this contract and the said terms of said Code; but no sums shall be so withheld, retained, or forfeited except from the final payment without a full investigation by either the Division of Labor Law Enforcement of the State Department of Industrial Relations or by said Board.

**2.20 PREVAILING WAGES.** The Contractor shall comply with Labor Code Section 1775. In accordance with said Section 1775, the Contractor shall forfeit, as a penalty to the County of Stanislaus, \$25.00 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 him or by any subcontractor under him. In addition to said penalty, the difference between such stipulated prevailing wage rates and the amount paid to each workman for each calendar day or portion thereof for which each workman was paid less than the stipulated prevailing wage rate shall be paid to each workman by the Contractor.

Pursuant to Sections 1770 and 1773 of the Labor Code, the Board of Supervisors has ascertained the general prevailing rate of per diem wages applicable to the work to be done for straight time, overtime, Saturday, Sunday and holiday work. These wage rates, which are set forth by the Director of the Department of Industrial Relations, are now on file with the Department of Public Works and are a part of the contract. The Contractor is required to post a copy of these prevailing wage rates on the job site.

The Owner will not recognize any claim for additional compensation because of the payment by the Contractor of any wage rate in excess of the prevailing wage rate set forth as provided herein. The possibility of wage increases is one of the elements to be considered by the Contractor in determining his bid, and will not under any circumstances be considered as the basis of a claim against the Owner on the contract.

**2.21 PAYROLLS AND BASIC RECORDS.** The Contractor shall meet the requirements of Section 7-1.01A(3), "Payroll Records", of the State of California Standard Specifications. The Contractor shall be responsible for compliance by his subcontractors.

**2.22 REQUIRED LISTING OF PROPOSED SUBCONTRACTORS.** Each bid shall have listed therein the name and address of each subcontractor to whom the bidder proposes to subcontract portions of the work in the amount of 1/2 of one percent of his total bid or \$10,000, whichever is greater, in accordance with the Subletting and Subcontracting Fair Practices Act, commencing with Section 4100 of the Public Contract Code. A sheet for listing the subcontractors, as required herein, is included in the Bid. The bidder's attention is invited to other provisions of said Act related to the imposition of penalties for a failure to observe its provisions by using unauthorized subcontractor or by making unauthorized substitutions.

**2.23 STANDARD SPECIFICATIONS AND CODES.** All work herein specified shall be performed in accordance with applicable sections of the following Standard Specifications or Codes which are herein named and hereby made a portion of these specifications. In a case of conflict between these specifications and said Standards, these specifications shall be paramount.

Stanislaus County Code Title 16, Chap. 16.05 (Uniform Building Code, 1994 Edition)  
Stanislaus County Code Title 16, Chap. 16.10 (Uniform Plumbing Code, 1994 Edition)  
Stanislaus County Code Title 16, Chap. 16.15 (National Electric Code, 1993 Edition)  
Stanislaus County Code Title 16, Chap. 16.20 (Uniform Mechanical Code, 1994 Edition)  
Standard Specifications, State of California, Department of Transportation (1996)  
Stanislaus County Improvement Standards  
California Building Code (California Code of Regulations, Title 24, Part 2)

**2.24 TAXES.** Any federal, state or city tax payable on articles furnished by the Contractor under the contract shall be included in the contract price paid by the Contractor.

**2.25 TIME FOR COMPLETION AND LIQUIDATED DAMAGES.** The work to be performed on each Project identified in Article V of this Agreement shall be completed within

**"Seventy-five (75) Working Days"**

from the date of Notice to Proceed issued with respect to each Project. Should the Contractor fail to complete this contract and the work provided for therein within the fixed time for such completion, the parties hereto agree that it would be impracticable or extremely difficult to fix the actual damage, and therefore agree that the Contractor shall be liable to the Owner and may be assessed by the Owner in the sum of five hundred dollars (\$500.00) per day for each calendar day this contract is delayed beyond the time of completion above agreed upon by failure of the Contractor to complete the contract as specified. Such payment shall be construed to be liquidated damages by the Contractor in lieu of any other claim for damage because of such delay, and shall not be construed as a penalty.

**2.26 PREFERENCES.** Price and quality being equal, preference shall be given by the Contractor to Stanislaus County products.

**2.27 DEFECTS IN WORK.** The Contractor shall be responsible for and must make good any defects through faulty, improper or inferior workmanship or materials arising or discovered in any part of this work within one (1) year after the completion and acceptance of the same.

**2.28 DEVIATION FROM PLANS AND SPECIFICATIONS.** No deviation shall be made from the plans and specifications. If the Contractor shall vary from the plans and specifications in the form of quality or in the work or the amount or value of the materials herein provided for, the Owner shall have the right to order such improper work or materials removed, remade or replaced. In the event that the work is ordered changed, any other work disturbed or damaged by such alteration shall be made good at the Contractor's expense.

**2.29 BRANDS.** Wherever the name or brand of a manufacturer or an article is specified herein, it is used as a measure of quality and utility or a standard. If the Contractor desires to use any other brand or manufacturer of equal quality and utility to that specified, he shall make application to the Owner in writing and submit samples, if requested. The Contractor shall have 35 days after the award of the contract for submission of data substantiating any such request for substitution of "equal" items. The Owners will then determine whether or not the name brand or article is equal in quality and utility to that specified, and its decision shall be final.

Except in those instances in which the product is designated to match others presently in use, specifications herein calling for a designated material, product, thing or service by specific brand or trade name shall be deemed to be followed by the words "or equal" so that bidders may furnish any equal material, product, thing or service. The successful bidder shall have thirty-five (35) days after award of the contract for submission of data substantiating a request for a substitution of "an equal" item, pursuant to Section 3400 of the Public Contract Code.

**2.30 NEW MATERIALS.** All materials used in the work shall be new and the best market quality, unless specified or shown otherwise. All labor used on this contract shall be competent and skilled for the work. All work executed under this contract shall be done in the best, most thorough substantial and workmanlike manner. All material and labor shall be subject to the approval of the Engineer as to quality and fitness, and shall be immediately removed if it does not meet with his approval.

**2.31 ABANDONMENT OF WORK.** Should the Contractor abandon the work called for under the plans and specifications and contract documents, or assign his contract, or if the Contractor unnecessarily and unreasonably delays the work, or if the Contractor willfully violates any of the conditions of the plans and specifications or contract documents, or performs the work in bad faith, the Owner shall have the power to notify the Contractor to discontinue all work or any part thereof under this contract, and thereupon the Contractor shall cease to continue said work or such part thereof as the Owner may designate, and the Owner shall thereupon have the power to employ such persons as it may consider desirable, and to obtain by contract, purchase, hire or otherwise, such implements, tools, material or materials as the Owner may deem advisable to work at and be used to complete the work herein described, or such part thereof as shall have not been completed, and to use such material as it may find upon the site of said work, and to charge the expense of such labor and material, implements and tools to the Contractor, and the expense so charged shall be deducted and paid by the Owner out of such monies as may be either due, or may at any time thereafter become due to the Contractor hereunder and by virtue of the contract.

In the case such expense is less than the sum which would have been payable under the contract, if the same had been completed by the Contractor, the Contractor shall be entitled to receive the difference, and in case such expense shall exceed the last said amount, then the Contractor or his bondsman shall pay the amount of such excess to the Owner on notice to either from the Owner the excess so due.

**2.32 OCCUPANCY OF BUILDING.** The Owner reserves the right to occupy or use any part or parts or the entirety of the building or project upon which the work is to be performed during the performance of the work. The exercising of this right shall in no way constitute an acceptance of such part or parts of the work, nor shall it in any way effect the date and time when the work is to be completed, nor shall it in any way prejudice the Owner's rights in

the Contractor any bond guaranteeing the same; this contract is to be deemed completed only when all of the work contracted for shall be duly and properly performed and accepted by the Board.

**2.33 EXTENSION OF TIME.** If it appears to the Contractor that he will not complete the work herein specified in the time agreed, he shall make written application to the Owner at least five (5) calendar days prior to the expiration of the time for completion, stating the reasons why and the amount of extension which he believes he should be granted. The Owner may then, in its discretion, grant or deny such extension.

**2.34 SUSPENSION OF WORK.** Should the Owner, for any cause, authorize a suspension of work, the time of such suspension will be added to the time allowed for completion. Suspension of work by order of the Board shall not be deemed a waiver of the claim of the Owner for damages for non-completion of the work as above required.

**2.35 JUSTIFIABLE DELAYS.** The Contractor shall not be held responsible for delays in the completion of the work caused by strikes, labor disturbances, lack or failure of transportation, war, inability to obtain materials due to war conditions, perils of the sea, insurrection, riot, acts of any government, whether foreign or domestic, federal or state, and/or any other causes similar to the foregoing which are beyond the control of and are not the fault of the Contractor, or if prevented by conditions directly resulting from the execution of contracts or the placing of orders by the Federal government or its authorized agencies or representatives, which are required by law to be given priority, but provided that whenever the Contractor shall claim that delays are due to any or all of the above named cause or causes of delay, request an extension of time in accordance with paragraph 2.31 of these General Conditions, and if the Board finds that such cause or causes of delay exist, it shall grant him an extension of time equal to the delay resulting from such cause or causes, or the Board may at its option, rescind said contract and pay said Contractor for the reasonable value of the work completed and let a new contract for the completion of the remainder of the work herein specified.

**2.36 PATENTS AND ROYALTIES.** If any material, composition, process or any other thing called for or required by the plans and specifications heretofore adopted by the Owner is covered by letter patent, all royalties and expenses thereof, all litigation therefrom, or other things whatsoever which may develop as a cost from the use of such material, composition, process or any other thing which is covered by letter patents shall be borne by the Contractor. The Contractor shall pay all license and/or royalty fees. He shall defend all suits or claims for infringement of any patent rights and shall save the Owner harmless from loss on account thereof.

**2.37 EXAMINATION OF SITE.** The Contractor shall be held to have examined the site, compared it with the drawings and specifications, and to have satisfied himself as to the conditions under which the work is to be performed. No allowance or claims on his behalf will be made for any expense to which he may be put as a result or failure on his part to thoroughly acquaint himself with conditions at the site.

**2.38 DAMAGE TO OTHERS.** The Contractor shall exercise due caution during his operations so as not to damage the property of others or Owner's property not directly involved under the plans and specifications, and shall be responsible for the protection of this property and shall replace any and all such property to its former condition as a result of his failure to provide protection or exercise due caution during his operations.

**2.39 SURVEYS AND GRADES.** The Engineer shall establish permanent type reference monuments or posts for the alignment and elevations of all work. For structures he will provide said monuments for reference data only. For general engineering contracts he shall provide the usual stakes sufficient for construction. The Contractor shall be charged with the responsibility of adequately protecting said stakes and monuments. The Contractor shall be requested to set supplemental posts for detailed construction needs.

**2.40 SHOP DRAWINGS.** The Contractor shall furnish two (2) copies of shop drawings for all steel, miscellaneous iron, electrical and sheet metal work at such time as to cause no delay in his own or other person's work. The Engineer shall, with reasonable promptness, check the drawings, making corrections, and return them for fabrication; two (2) copies of the corrected drawings used for fabrication shall be returned to the Engineer. The drawings shall not relieve the Contractor from any errors made in fabrication or deviation from original plans and specifications unless such deviation has been specifically permitted in writing by the Director of the Department of Public Works.

**2.41 CORRECTION OF WORK AFTER FINAL PAYMENT.** Neither the final certificate nor final payment, nor any provision of the contract documents shall relieve the Contractor of responsibility for faulty materials or workmanship, and unless otherwise specified, he shall remedy any defects due thereto and shall pay for any damage or other work resulting therefrom which shall appear within a period of one year from the date of substantial completion. The Owner shall give notice of observed defects with reasonable promptness. All questions arising under this article shall be decided by the Director of Public Works.

**2.42 CHANGES IN WORK.** The Owner, without invalidating the contract, may order extra work or make changes by altering, adding to or deducting from the work, the contract sum being adjusted accordingly. All such work shall be performed under the conditions of the contract except that any claim for extension of time caused thereby shall be adjusted at the time of ordering the change. The Engineer shall have authority to make minor changes not involving extra cost and not inconsistent with the purpose of the project.

The value of such extra work or change shall be determined in one or more of the following ways:

- (a) By estimate and acceptance in a lump sum;
- (b) By unit prices named in the contract or subsequently agreed upon;
- (c) By cost and percentage and fixed fee.

Should conditions below surface of the ground be at variance with the conditions indicated by the drawings and specifications, the contract sum shall be equitably adjusted upon claim by either party made within a reasonable time after first observation of conditions.

The amount agreed upon as the value of any extra work resulting from any change order shall constitute full and complete compensation for all overhead, labor, material, tools, and equipment furnished in the performance of work required by that change order. Furthermore, the amount agreed upon as the value of extra work for any change order shall be accepted by the Contractor as full and complete compensation for any and all claims of any nature whatsoever, including, but not limited to, any actual or alleged claims for compensation by Contractor, or any subcontractor of Contractor for delays occasioned by or in any way arising out of stoppage of the work, coordination of the work with others, or processing of that change order.

**2.43 CLEANING UP.** Contractor shall at all times keep the premises free from accumulations of waste material or rubbish as a result of this operation. Upon completion of work he shall remove all rubbish, material and his equipment from the job and shall leave the job site in a "broom clean" or equivalent condition. In case of a dispute regarding this item, the Owner may remove rubbish or material and charge the cost to the several contractors as the authorized representative shall deem just.

**2.44 SUPERVISION.** The Contractor shall, at all times during the working hours of the contract, have a competent foreman or superintendent on the job who shall be authorized to act as an agent of the Contractor. Such agent shall be familiar with the type of work hereunder and be aware of the hazards and the safety rules relating to this particular type of construction. Ignorance or incompetence of a foreman shall be due cause for his removal from the job and cessation of work under this contract until the intent of this paragraph is fulfilled, without recourse by the Contractor for any extension of the time of completion as a result of the removal of such unsatisfactory agent.

**2.45 APPRENTICESHIP STANDARDS.** This contract is subject to the provisions in Sections 1777.5 (Chapter 1411, Statutes of 1968) and 1777.6 of the Labor Code concerning the employment of apprentices by the Contractor or any subcontractor under the Contractor. Section 1777.5, as amended, requires the Contractor or subcontractor employing tradesmen in any apprenticeable occupation to apply to the Joint Apprenticeship Committee nearest the site of the public works project and which administers the apprenticeship program in that trade for a certificate of approval. The certificate will also fix the ratio of apprentices to journeymen that will be used in the performance of the contract. The ratio of apprentices to journeymen in such cases shall not be less than one to five, except:

- (a) When unemployment in the area of coverage by the Joint Apprenticeship Committee has exceeded an average of fifteen percent (15%) in the 90 days prior to the request for certificate; or
- (b) When the number of apprentices in training in the area exceeds a ratio of one to five; or
- (c) When the trade can show that it is replacing at least 1/30 of its membership through apprenticeship training on an annual basis statewide or locally; or
- (d) When the Contractor provides evidence that he employs registered apprentices on all of his contracts on an annual average of not less than one apprentice to eight journeymen.

The Contractor is required to make contributions to funds established for the administration of apprenticeship programs if he employs registered apprentices or journeymen in any apprenticeable trade on such contracts and if other contractors on the public works site are making such contributions.

The Contractor and any subcontractor under him shall comply with the requirements of Sections 1777.5 and 1777.6 in the employment of apprentices.

Information relative to apprenticeship standards, wage schedules, and other requirements may be obtained from the Administrator of Apprenticeship, San Francisco, California, or from the Division of Apprenticeship Standards and its branch offices.

**2.46 ASSIGNMENT OF ANTI-TRUST ACTIONS AND UNFAIR BUSINESS PRACTICE CLAIMS.**

In entering into a public works contract or a subcontract to supply goods, services, or materials pursuant to a public works contract, the Contractor or subcontractor offers and agrees to assign to the awarding body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the public works contract or the subcontract. This assignment shall be made and become effective at the time the awarding body tenders final payment to the Contractor, without further acknowledgment by the parties.

**2.47 EQUAL EMPLOYMENT OPPORTUNITY.** Contractor agrees for the duration of this contract that it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, age, political affiliation, marital status, or handicap. The Contractor will take affirmative action to insure that employees are treated during employment or training without regard to their race, color, religion, sex, national origin, age, political affiliation, marital status, or handicap. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

The Contractor will in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, age, political affiliation, marital status, or handicap.

The Contractor will send to each labor union or other representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice advising the workers' representative of the Contractor commitments under this agreement.

The Contractor agrees that it will comply with the provisions of Titles VI and VII of the Civil Rights Act, Revenue Sharing Act Title 31, U.S. Code Section 2716, and California Government Code Section 12990.

The Contractor agrees that it will assist and cooperate with the County of Stanislaus, the State of California and the United States Government in obtaining compliance with the equal opportunity clause, rules, regulations, and relevant orders of the State of California and United States Government issued pursuant to the Acts.

In the event of the Contractor's non-compliance with the discrimination clause, the affirmative action plan of this contract, or with any of the said rules, regulations or orders, this contract may be canceled, terminated, or suspended in whole or in part by the Owner.

**2.48 HANDICAPPED NON-DISCRIMINATION.** This project is subject to Section 504 of the Rehabilitation Act of 1973 as amended (29 U.S.C. 794) and all requirements imposed by the applicable office of Revenue Sharing Regulations (31 CFR Part 51) and all guidelines and interpretations issued thereto. In this regard, the Owner and all of its contractors and subcontractors will take all reasonable steps to ensure that handicapped individuals have the maximum opportunity for the same level of aid, benefit or service as any other individual.

**2.49 FAIR EMPLOYMENT AND HOUSING ACT ADDENDUM.** In the performance of this contract, the Contractor will not discriminate against any employee or applicant for employment because of race, sex, color, religion, ancestry, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, sex, color, religion, ancestry, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, promotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the State or local agency setting forth the provisions of this Fair Employment and Housing Section.

The Contractor will permit access to his records of employment, employment advertisements, application forms, and other pertinent data and records by the State Fair Employment and Housing Commission, or any other agency of the State of California designated by the awarding authority, for the purposes of investigation to ascertain compliance with the Fair Employment and Housing section of this contract.

Remedies for willful violation include:

(a) The State or local agency may determine a willful violation of the Fair Employment and Housing provision to have occurred upon receipt of a final judgment having that effect from a court in an action to which Contractor was a party; or upon receipt of a written notice from the Fair Employment and Housing Commission that it has investigated and determined that the Contractor has violated the Fair Employment and Housing Act and has issued an order or obtained an injunction under Government Code Section 12900, et seq.

(b) For willful violation of this Fair Employment and Housing provision the State or local agency shall have the right to terminate this contract either in whole or in part, and any loss or damage sustained by the State or local agency in securing the goods or services hereunder shall be borne and paid for by the Contractor and by his surety under the performance bond, if any, and the State or local agency may deduct from any monies due or that thereafter may become due to the Contractor, the difference between the price named in the contract and the actual cost thereof to the State or local agency.

**2.50 CONTRACTS WHICH INVOLVE DIGGING TRENCHES OR EXCAVATIONS.** Pursuant to Public Contract Code section 7104, the Contractor is hereby notified as follows:

Any public works contract of a local public entity which involves digging trenches or other excavations that extend deeper than four feet below the surface shall contain a clause which provides the following:

(a) That the Contractor shall promptly, and before the following conditions are disturbed, notify the public entity, 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 contract.

(b) That the public entity shall promptly investigate the conditions, and if it finds that the conditions do materially so differ, or do involve hazardous waste, and cause a decrease or increase in the contractor's cost of, or the time required for, performance of any part of the work shall issue a change order under the procedures described in the contract.

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

**2.51 ARBITRATION.** The last paragraph in Section 9-1.10, "Arbitration," of the Standard Specifications is amended to read as follows:

Arbitration shall be initiated by a Complaint in Arbitration made in compliance with the requirements of said regulations. A Complaint in Arbitration by the Contractor shall be made not later than 180 days after the date of service in person or by mail on the Contractor of the final written decision by the Department on the claim.

**2.52 NOTICE OF POTENTIAL CLAIM.** Section 9-1.04, "Notice of Potential Claim," of the Standard Specifications is amended to read as follows:

**9-1.04 Notice of Potential Claim.** The Contractor shall not be entitled to the payment of any additional compensation for any act, or failure to act, by the Engineer, including failure or refusal to

issue a change order, or for the happening of any event, thing, occurrence, or other cause, unless he shall have given the Engineer due written notice of potential claim as hereinafter specified. Compliance with this Section 9-1.04 shall not be a prerequisite as to matters within the scope of the protest provisions in Section 4-1.03, "Changes," or Section 8-1.06, "Time of Completion," or the notice provisions in Section 5-1.116, "Differing Site Conditions," or Section 8-1.07, "Liquidated Damages," or Section 8-1.10, "Utility and Non-Highway Facilities," nor to any claim which is based on differences in measurements or errors of computation as to contract quantities.

The written notice of potential claim shall be submitted to the Engineer prior to the time that the Contractor performs the work giving rise to the potential claim for additional compensation, if based on an act or failure to act by the Engineer, or in all other cases within 15 days after the happening of the event, thing, occurrence, or other cause, giving rise to the potential claim.

The written notice of potential claim shall be submitted on Form CEM-6201 furnished by the Department and shall be certified with reference to the California False Claims Act (Government Code sections 12650 et seq.). The notice shall set forth the reasons for which the Contractor believes additional compensation will or may be due and the nature of the costs involved. Unless the amount of the potential claim has been stated in the written notice, the Contractor shall, within 15 days of submitting said notice, furnish an estimate of the cost of the affected work and impacts, if any, on project completion. Said estimate of costs may be changed or updated by the Contractor when conditions have changed. When the affected work is completed, the Contractor shall submit substantiation of his actual costs. Failure to do so shall be sufficient cause for denial of any claim subsequently filed on the basis of said notice of potential claim.

It is the intention of this Section 9-1.04 that differences between the parties arising under and by virtue of the contract be brought to the attention of the Engineer at the earliest possible time in order that such matters may be settled, if possible, or other appropriate action promptly taken. The Contractor hereby agrees that he shall have no right to additional compensation for any claim that may be based on any such act, failure to act, event, thing or occurrence for which no written notice of potential claim as herein required was filed.

Should the Contractor, in connection with or subsequent to the assertion of a potential claim, request inspection and copying of documents or records in the possession of the Department that pertain to the potential claim, Contractor shall make its records of the project, as deemed by the Department to be pertinent to the potential claim, available to the Department for inspection and copying.

**2.53 FINAL PAYMENT AND CLAIMS.** Section 9-1.07B, "Final Payment and Claims," of the Standard Specifications is amended to read as follows:

**"9-1.07B Final Payment and Claims.** After acceptance by the Director, the Engineer will make a proposed final estimate in writing of the total amount payable to the Contractor, including therein an itemization of said amount, segregated as to contract item quantities, extra work and any other basis for payment, and shall also show therein all deductions made or to be made for prior payments and amounts to be kept or retained under the provisions of the contract. All prior estimates and payments shall be subject to correction in the proposed final estimate. The Contractor shall submit written approval of the proposed final estimate or a written statement of all claims arising under or by virtue of the contract so that the Engineer receives such written approval or statement of claims no later than close of business of the thirtieth day after receiving the proposed final estimate. If the thirtieth day falls on a Saturday, Sunday or legal holiday, then receipt of such written approval or statement of claims by the Engineer shall not be later than close of business of the next business day. No claim will be considered that was not included in the written statement of claims, nor will any claim be allowed as to which a notice or protest is required under the provisions in Sections 4-1.03, "Changes," 8-1.06, "Time of Completion," 8-1.07, "Liquidated Damages" 5-1.116, "Differing Site Conditions," 8-1.10, "Utility and Non-Highway Facilities," and 9-1.04, "Notice of Potential Claim," unless the Contractor has complied with the notice or protest requirements in said sections.

"On the Contractor's approval, or if he files no claim within said period of 30 days, the Engineer will issue a final estimate in writing in accordance with the proposed final estimate submitted to the Contractor and within 30 days thereafter the State will pay the entire sum so found to be due. Such final estimate and payment thereon shall be conclusive and binding against both



parties to the contract on all questions relating to the amount of work done and the compensation payable therefor, except as otherwise provided in Sections 9-1.03C, "Records," and 9-1.09, "Clerical Errors."

"If the Contractor within said period of 30 days files claims, the Engineer will issue a semifinal estimate in accordance with the proposed final estimate submitted to the Contractor and within 30 days thereafter the State will pay the sum so found to be due. Such semifinal estimate and payment thereon shall be conclusive and binding against both parties to the contract on all questions relating to the amount of work done and the compensation payable therefor, except insofar as affected by the claims filed within the time and in the manner required hereunder and except as otherwise provided in Sections 9-1.03C, "Records," and 9-1.09, "Clerical Errors."

"Claims filed by the Contractor shall be in sufficient detail to enable the Engineer to ascertain the basis and amount of said claims. If additional information or details are required by the Engineer to determine the basis and amount of said claims, the Contractor shall furnish such further information or details so that the information or details are received by the Engineer no later than the fifteenth day after receipt of the written request from the Engineer. If the fifteenth day falls on a Saturday, Sunday or legal holiday, then receipt of such information or details by the Engineer shall not be later than close of business of the next business day. Failure to submit such information and details to the Engineer within the time specified will be sufficient cause for denying the claim.

"The Contractor shall keep full and complete records of the costs and additional time incurred for any work for which a claim for additional compensation is made. The Engineer or any designated claim investigator or auditor shall have access to those records and any other records as may be required by the Engineer to determine the facts or contentions involved in the claims. Failure to permit access to such records shall be sufficient cause for denying the claims.

"Claims submitted by the Contractor shall be accompanied by a notarized certificate containing the following language:

"Under the penalty of law for perjury or falsification and with specific reference to the California False Claims Act (Government Code Section 12650 et. seq.), the undersigned, hereby certifies that the claim for the additional compensation and time, if any, made herein for the work on this contract is a true statement of the actual costs incurred and time sought, and is fully documented and supported under the contract between parties.

Dated \_\_\_\_\_ /s/ \_\_\_\_\_  
\_\_\_\_\_  
(name) \_\_\_\_\_ of  
(title) \_\_\_\_\_  
(company) \_\_\_\_\_

Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires \_\_\_\_\_

Failure to submit the notarized certificate will be sufficient cause for denying the claim.

Any claim for overhead type expenses or costs, in addition to being certified as stated above, shall be supported by an audit report of an independent Certified Public Accountant. Any such overhead claim shall also be subject to audit by the State at its discretion.

Any costs or expenses incurred by the State in reviewing or auditing any claims that are not supported by the Contractor's cost accounting or other records shall be deemed to be damages incurred by the State within the meaning of the California False Claims Act.

The District Director of the District which administers the contract will make the final determination of any claims which remain in dispute after completion of claim review by the Engineer. A board or person designated by said District Director will review such claims and make a written recommendation thereon to the District Director. The Contractor may meet with the review board or person to make a presentation in support of such claims.

Upon final determination of the claims, the Engineer will then make and issue his final estimate in writing and within 30 days thereafter the State will pay the entire sum, if any, found due thereon. Such final estimate shall be conclusive and binding against both parties to the contract on all questions relating to the amount of work done and the compensation payable therefor, except as otherwise provided in Sections 9-1.03C, "Records," and 9-1.09, "Clerical Errors."

## **2.54 CLAIMS UNDER \$375,000.**

The provision of Article 1.5 (commencing with section 20104) of the Public Contract Code, relating to the resolution of construction Claims of three hundred seventy-five thousand dollars (\$375,000) or less which arise between a contractor and a local agency are hereby incorporated in this Contract and set forth below.

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

(f) This article does not apply to tort claims and nothing in this article is intended nor shall be construed to change the time periods for filing tort claims or actions specified by 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.

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 mutual stipulation of both parties. The mediation process shall provide for the selection within 15 days by both parties of a 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 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 (Title 4 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure) shall apply to any proceeding brought under this subdivision consistent with the rules 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.

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.

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