

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS  
ACTION AGENDA SUMMARY

DEPT: Community Services Agency

BOARD AGENDA # \*B-2

Urgent  Routine

AGENDA DATE October 27, 2015

CEO Concurs with Recommendation YES  NO   
(Information Attached)

4/5 Vote Required YES  NO

SUBJECT:

Approval to Award an Agreement with JHK Construction, Inc., a California Corporation, for the Community Services Agency Impact-Resistant Glass and Workstations with Pass-Through Reception Counters Project

STAFF RECOMMENDATIONS:

1. Approve the award of an agreement with JHK Construction, Inc., a California Corporation, as a result of an Invitation for Bid (BID) process for the Community Services Agency Impact-Resistant Glass and Workstations with Pass-Through Reception Counters Project in an amount not to exceed \$160,000.
2. Authorize the Purchasing Agent (or Project Manager) to issue a Notice to Proceed to JHK Construction, Inc. contingent upon proper receipt of an executed Agreement and certificates of insurance and bonds.

(Continued on Page 2)

FISCAL IMPACT:

The Community Services Agency included funding in the amount of \$160,000 in the 2015-2016 Adopted Final Budget. Funding for this agreement is \$155,360 or 97.1% Federal and State funded and \$4,640 from County Match funds previously allocated to the Department. There is no additional cost to the General Fund.

BOARD ACTION AS FOLLOWS:

No. 2015-494

On motion of Supervisor Chiesa, Seconded by Supervisor Monteith  
and approved by the following vote,

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

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1)  Approved as recommended

2)  Denied

3)  Approved as amended

4)  Other:

MOTION:

ATTEST:

  
CHRISTINE FERRARO TALLMAN, Clerk

File No.

**STAFF RECOMMENDATIONS: (Continued)**

3. Authorize the Purchasing Agent to negotiate and sign contracts, work authorizations and purchase orders necessary for the Project as long as they are within the previously approved project budget.
4. Authorize the Purchasing Agent to negotiate and sign change orders up to \$25,000 consistent with the County's Change Order Policy, as long as they are within the previously approved budget.

**DISCUSSION:**

The Community Services Agency (CSA) StanWORKs reception lobby window area is challenging for staff and customers in its current configuration and the Department has been preparing for design changes in that area since 2012. The window area in the main Community Services Facility (CSF) lobby consists of fifteen (15) stand-up height windows that measure 35 inches wide by 18 inches deep and the desk top is 41.5 inches high. Employees use tall stools to sit on during interviews with customers, which last approximately 90 minutes. This configuration requires customers to stand during the interview. Due to the lengthy time of the interviews, standing can become difficult for customers with small children and also does not provide adequate access for the elderly or disabled. The configuration also does not provide adequate space for dual monitors that employees use to access multiple programs and files while assisting customers. An average of 366 customers enter the StanWORKs lobby on a daily basis; in Fiscal Year 2014-2015, a total of 91,408 customers were seen.

During the three-year period of 2012 through 2015, CSA received over 24 "near miss reports" from employees as a result of accidents or potential accidents resulting from the stools and/or ergonomic issues with the height of the counters.

Effective September 1, 2015, all CalWORKs employable adults are required to come into the Agency and complete a new appraisal/assessment in person. This assessment takes approximately 90-120 minutes and covers areas such as mental health, substance usage, domestic violence, family relationships, housing, etc.

During the summer of 2013, CSA began exploring the potential to reconfigure the existing windows, with the desire to complete this during the office closure over the Christmas furlough. Preliminary quotes obtained at that time exceeded \$45,000. Due to the scope of the project CSA reached out to General Services Agency (GSA) in the fall of 2013.

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CSA staff has worked very closely with GSA since 2013 on this project. While the County has initiated a Master Planning project to look at service delivery and facility planning for the next 20 years, the need for the lobby window redesign prior to the completion of the master planning process is based on current business demands, program requirements and ongoing ergonomic and customer service requirements. It is anticipated that long-term, the Department will continue to have a need for a customer lobby for various face-to-face meetings.

On March 13, 2015 a meeting with CSA managers and GSA Purchasing and Building Maintenance staff took place, where it was determined that a Request for Proposal (RFP) process for the CSF lobby window redesign was appropriate. On July 10, 2015 GSA posted bid #15-28-BD Impact-Resistant Glass and Workstations with Pass-Through Reception Counters.

The County of Stanislaus for the Community Services Agency (CSA) sought bids from qualified, experienced, and licensed contractors to provide labor and materials for the installation of impact-resistant glass and workstations with pass-thru reception counters in the CSA's lobby located in the Stanislaus County Community Services Facility at 251 East Hackett Road, Modesto, CA. The current reception counters were originally designed for both customers and staff to stand during short interviews. As interview processes changed, interviews are now longer, which requires staff to stand most of the day.

On July 10, 2015 BID #15-28-BD was issued and sent electronically to 747 vendors, 44 of which downloaded the BID. A mandatory pre-proposal conference was held on July 28, 2015 with six (6) vendors in attendance. The BID closed on August 12, 2015. The General Services Agency (GSA) received a completed response from the one (1) responsive and responsible vendor listed below:

- JHK Construction, Inc.

This vendor met the minimum requirements set forth in the bid. On August 19, 2015 GSA issued a Notice of Intended Award to JHK Construction, Inc. No letter of protest was received during the five-day protest period of the BID process.

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The recommended agreement with JHK Construction, Inc. will provide both customers and staff an environment that will be more ergonomically correct and comfortable as they are both able to sit during long interviews. The impact-resistant glass will allow CSA staff to work in a more secure environment. Upon approval, the agreement will be effective following the issuance of a Notice to Proceed (Notice). GSA anticipates this project will be completed within 60 working days from the date the Notice is issued.

**POLICY ISSUES:**

Approval of the requested actions supports the Board's priority to provide Efficient Delivery of Public Services by contracting with a vendor who can provide the needed services in the most cost effective manner that will result in CSA staff working in a more secure and ergonomically sound workstation.

**STAFFING IMPACT:**

Existing General Services Agency staff and Community Services Agency staff will assist with project management and the coordination of this project.

**CONTACT PERSON:**

Kathryn M. Harwell, Director

(209) 558-2500

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

This Agreement, made this September 15<sup>th</sup>, 2015, by and between JHK CONSTRUCTION ("Contractor") and the COUNTY OF STANISLAUS ("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: Impact Resistant Glass and Workstations with Pass-Through Reception Counters**  
**BID NO.: 15-28-BD**

as set forth in the Bid of the Contractor and in accordance with the Bid, Notice to Bidders, Information for Bidders, General Conditions, plans and specifications, bonds, addenda, Exhibit A to this Agreement 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 is to 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 a written change order issued by the Stanislaus County Purchasing Agent. The amount to be paid by the County or to be deducted from the contract price by virtue of such alterations shall be detailed and stated in said change order and shall be approved in writing by the County and the Contractor.

Changes, additions, and alterations in the Work, may be ordered in writing by the Purchasing Agent of the County of Stanislaus in the form of a written change order.

**ARTICLE IV**

The Contractor shall commence the Work within **Ten (10) working days** after the date specified in the Notice to Proceed given to it by the Purchasing Agent shall prosecute said Work in a prompt, diligent and workmanlike manner. The Contractor shall complete the Work within **Sixty (60) Working Days** 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**

County shall pay to 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, Contractor may elect to receive all payments due under the contract without any retention. If Contractor so elects, it shall deposit with 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 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 the insurance required and listed in the General Conditions, Section 2.14, of the contract documents.

#### ARTICLE VIII

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 IX

Contractor shall comply with all the provisions of state and local laws relating to contracts for the prosecution of public works. 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. Contractor is required to post a copy of these prevailing wage rates at the job site.

#### ARTICLE X

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 Purchasing Agent.

#### ARTICLE XI

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. Contractor shall comply with the Subcontractor Listing Law. This contract shall be binding upon the parties hereto, their heirs, successors, assigns, subcontractors, and legal representatives.

#### ARTICLE XII

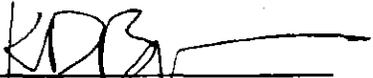
Any alteration or alterations made in this contract, or any part hereof, shall not operate to release any surety from liability of any bond given pursuant to the provisions of this contract and the consent of such surety to such alteration or alterations is hereby given, the surety expressly waiving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

#### ARTICLE XIII

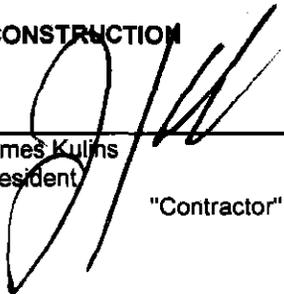
Neither the final certificate nor payment, nor any provision of the related documents, shall relieve the Contractor of responsibility for faulty workmanship or materials, and less otherwise specified, he shall remedy any defects

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 Purchasing Agent.

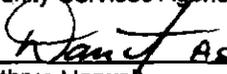
**COUNTY OF STANISLAUS**

By:   
Keith D. Boggs, Assistant Executive Officer,  
GSA Director/Purchasing Agent  
"County"

**JHK CONSTRUCTION**

By:   
James Kulhs  
President  
"Contractor"

**APPROVED AS TO CONTENT:  
Community Services Agency**

By:   
Kathryn Harwell  
Director  
*For* ASSISTANT DIRECTOR

**APPROVED AS TO FORM:**

John P. Doering  
County Counsel  
By:   
Thomas E. Boze  
Assistant County Counsel

## **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 Agent of the County of Stanislaus, California.
- 2.03 ENGINEER.** The Stanislaus County Purchasing Agent shall supervise and be responsible for the Work, and whenever the word "Director" or the word "Engineer" is used herein, it shall mean the Purchasing Agent 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 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.
- 2.09 AGREEMENT.** The Contractor to whom the Work is awarded shall, within ten days after receipt of the contract documents as mailed by the Purchasing Agent, enter into an agreement with the owner. The form of agreement is attached herein and made a part of these General Conditions.
- 2.10 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.
- 2.11 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.
- 2.12 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 Purchasing Agent 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.
- 2.13 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.

## **2.14 INSURANCE.**

**2.14.1 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. For Workers' Compensation insurance, the insurance carrier shall agree to waive all rights of subrogation against the County, its officers, officials and employees for losses arising from the performance of or the omission to perform any term or condition of this Agreement.

**2.14.2 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.

**2.14.3 Additional Insured.** The Contractor shall provide a specific endorsement to all required insurance policies, except Workers' Compensation insurance, 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.

**2.14.4 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.

**2.14.5 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.

**2.14.6 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.

**2.14.7 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 mail has been given to Owner.

**2.14.8 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.

**2.14.9 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.

**2.14.10 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.

**2.14.11 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.

## **2.15 DEFENSE AND INDEMNIFICATION.**

**2.15.1** Owner and each of its officers, employees, consultants and agents including, but not limited to, the Board, Project Manager and each Owner's Representative, shall not be liable or accountable in any manner for loss or damage that may happen to any part of the Work; loss or damage to materials or other things used or employed in performing the Work; injury, sickness, disease, or death of any person; or damage to property resulting from any cause whatsoever except their sole negligence, willful misconduct or active negligence, attributable to performance or character of the Work, and Contractor releases all of the foregoing persons and entities from any and all such claims.

**2.15.2** To the furthest extent permitted by law (including without limitation California Civil Code §2782), Contractor shall assume defense of, and indemnify and hold harmless, Owner and each of its officers, employees, consultants and agents, including but not limited to the Board, Project Manager and each Owner's Representative, from claims, suits, actions, losses and liability of every kind, nature and description, including but not limited to claims and fines of regulatory agencies and attorney's fees and consultant's fees, directly or indirectly arising out of, connected with or resulting from performance of the Work, failure to perform the Work, or condition of the Work which is caused in whole or part by any act or omission of Contractor, Subcontractors, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, resulting from any cause whatsoever except their sole negligence, willful misconduct or active negligence.

**2.15.3** With respect to third-party claims against Contractor, Contractor waives any and all rights to any type of express or implied indemnity against Owner and each of its officers, employees, consultants and agents including, but not limited to Owner, the Board, Project Manager and each Owner's Representative. Owner shall provide timely notice to Contractor of any third-party claim relating to the Contract Documents, in accordance with Section 9201 of the California Public Contract Code.

**2.15.4** Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of Contractor, its Subcontractors of any tier, or the officers or agents of any of them.

**2.15.5** To the furthest extent permitted by law (including, without limitation, Civil Code §2782), the indemnities, releases of liability and limitations of liability, claims procedures, and limitations of remedy expressed throughout Contract Documents shall apply even in the event of breach of Contract, negligence (active or passive), fault or strict liability of the party(ies) indemnified, released, or limited in liability, and shall survive the termination, rescission, breach, abandonment, or completion of the Work or the terms of the Contract Documents. If Contractor fails to perform any of these defense or indemnity obligations, Owner may in its discretion back charge Contractor for Owner's costs and damages resulting therefrom and withhold such sums from progress payments or other Contract moneys which may become due.

**2.15.6** The indemnities in the Contract Documents shall not apply to any indemnified party to the extent of its sole negligence or willful misconduct; nor shall they apply to Owner or other indemnified party to the extent of its active negligence.

**2.16 ASSIGNMENT OF CONTRACT.** 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.

**2.17 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, \$200.00 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 Stanislaus County Purchasing Department 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.

**2.18 REQUIRED LISTING OF PROPOSED SUBCONTRACTORS.** Each bid shall have listed therein the name, license number 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.

**2.19 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

Stanislaus County Code Title 16, Chap. 16.10

Stanislaus County Code Title 16, Chap. 16.15

Stanislaus County Code Title 16, Chap. 16.20

Standard Specifications, State of California, Department of Transportation (2006)

Stanislaus County Improvement Standards  
California Building Code (California Code of Regulations, Title 24, Part 2)

**2.20 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.

**2.21 TIME FOR COMPLETION.** The Work to be performed under this contract shall be completed as stated within ARTICLE IV of this Agreement.

**2.22 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.

**2.23 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.

**2.24 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 Contractor may furnish any equal material, product, thing or service. The Contractor 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.

**2.25 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.

**2.26 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.

**2.27 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.

**2.28 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.

**2.29 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 2.27 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.

**2.30 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.

**2.31 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.

**2.32 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.

**2.33 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.

**2.34 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 Purchasing Agent.

**2.35 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.

**2.36 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.

**2.37 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.

**2.38 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 employees 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.

**2.39 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.

**2.40 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.

**2.41 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.

**2.42 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 judgement 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.

#### **2.43 DIGGING TRENCHES OR EXCAVATIONS.**

2.43.1 Trenching shall be done in accordance with the California Labor Code Section 6705, 6706, and 6707.

2.43.2 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 and 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.

2.43.3 Digging trenches or excavations shall be in accordance with the California Government Code Section 4216, the California Business and Professions Code Section 7110 and the CalOSHA Regulation Title 8 Chapter 4 Subchapter 4 Article 6 Section 1541.

#### **2.44 NOTICE**

Any notice, communication, amendment, addition or deletion to this Agreement, including change of address of either party during the term of this Agreement, which Contractor or County shall be required or may desire to make shall be in writing and may be personally served or, alternatively, sent by prepaid first class mail to the respective parties as follows:

To County: County of Stanislaus  
Purchasing Agent  
1010 10<sup>th</sup> Street, Suite 5400  
Modesto, CA 95354

To Contractor: JHK Construction  
James Kulina, President  
27727 E. Tiffani Ln.  
Escalon, CA 95320

#### **2.45 FINAL PAYMENT.**

##### **A. FINAL PAYMENT**

1. As soon as practicable after all required Work is completed in accordance with Contract Documents, including punch list, testing, record documents and Contractor maintenance after Final Acceptance, Contractor shall submit its Application for Final Payment.
2. Provided Contractor has met all conditions required for Final payment, Owner will pay to Contractor, in manner provided by law, unpaid balance of Contract Sum of Work (including, without limitation, retentions), or whole Contract Sum of Work if no progress payment has been made, determined in accordance with terms of Contract Documents, less sums as may be lawfully retained under any provisions of Contract Documents or by law.

##### **B. FINAL ACCOUNTING**

1. Prior progress payments and change orders shall be subject to audit and correction in the final payment.
2. Contractor and each assignee under an assignment in effect at time of final payment shall execute and deliver at time of final payment, and as a condition precedent to final payment, an Agreement and Release of Claims.

## 2.46 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.

**EXHIBIT A**  
**TO**  
**AGREEMENT FOR PUBLIC WORKS OF IMPROVEMENT**  
**For**  
**IMPACT-RESISTANT GLASS and WORKSTATIONS with PASS-THROUGH RECEPTION COUNTERS**

**The following notice and documents are included as Exhibit A to this Agreement:**

- **STATE OF CALIFORNIA SB-854 COMPLIANCE NOTICE:**
  - o No Contractor or subcontractor may be listed on a bid proposal for a public work project (submitted on or after March 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].
  - o No contractor or subcontractor may be awarded a contract for public work on a public works project (awarded on or after April 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.
  - o This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.
  
- **SCOPE OF WORK from BID NO. 15-28-BD**, including any Addenda thereto; and
  
- **CONTRACTOR'S BID PRICING**, issued in response to BID No. 15-28-BD.