



County of Santa Clara

Facilities and Fleet Department
 2310 North First Street, Suite 200
 San Jose, California 95131-1040
 (408) 993-4600
 FAX (408) 993-4777

INVITATION TO BID # ITB-FAF-FY21-0168

Project Name	Reply Due
FLOORING REPAIR SERVICES	February 2, 2021 @ 3:00 p.m.

<u>County Contact</u>	<u>Pre-Bid Conference</u>
Contract Administrator: Rocio Reyes Tel.: (408) 993-4624 Email: Rocio.reyes@faf.sccgov.org Project Manager: Danuel Singer Tel.: (408) 947-2539 Email: Danuel.Singer@hhs.sccgov.org	Will Not be Held

The County of Santa Clara (“Owner”) invites qualified Contractors to bid on the FLOORING REPAIR SERVICES project as specified herein.

The following documents are attached hereto and incorporated herein by reference are part of **ITB-FAF-FY21-0168**. All County-furnished forms, and documents constitute the Invitation to Bid (ITB) package (“Bid Documents”) and are the terms and conditions for any subsequent Contract Documents.

NOTICE TO BIDDERS
 INSTRUCTIONS TO BIDDERS
 EXHIBIT A – Contract General Conditions
 EXHIBIT B – Insurance Requirements
 EXHIBIT C – Workers Compensation
 EXHIBIT D – Bidder’s Certification
 EXHIBIT E – Prevailing Wage Statement
 EXHIBIT F – Reserved
 EXHIBIT G – Customer References
EXHIBIT H – Scope of Work/Specifications
EXHIBIT I – Sample Infection Control Permit Form
Attachment 1 – Service Locations
Attachment 2 – County Holiday Schedule

BID PROPOSAL FORM
 BIDDERS BOND
 SAMPLE AGREEMENT

The following documents must be completed and submitted with the Bid Proposal:

BID PROPOSAL FORM
 BIDDERS BOND
 EXHIBIT C – Workers Compensation
 EXHIBIT D – Bidder’s Certification
 EXHIBIT E – Prevailing Wage Statement
 EXHIBIT F – Designation of Subcontractors
 EXHIBIT G – Customer References

The following are to be submitted by the successful bidder:
 PERFORMANCE BOND
 PAYMENT BOND
 CERTIFICATE OF INSURANCE
 SIGNED AGREEMENT



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NOTICE TO BIDDERS

ARTICLE I — GENERAL

1.01 NOTICE IS HEREBY GIVEN that sealed bids will be accepted by the Owner's Authorized Representative, at 2310 North First Street, Suite 200, San Jose, CA, 95131, no later than **3:00 p.m.** on **February 2, 2021** for **FLOORING REPAIR SERVICES, ITB-FAF-FY21-0168**, in accordance with the Bid Documents on file for the Work in the Facilities and Fleet Department.

1.02 THE WORK

It is the intent of the County of Santa Clara – Facilities and Fleet Department to establish a term contract with a contractor to provide **FLOORING REPAIR SERVICES** on an "as needed" basis ("Contract"). **The term contract shall only be used for repair work and replacement of currently existing structures with County approved equivalents.** The term contract shall be for a period of one (1) year, unless terminated or otherwise amended. Total contract sum shall not exceed two hundred thousand dollars (\$200,000).

Successful contractor shall be responsible for all necessary tools; materials; consumables, which shall include but shall not be limited to workers' supplies or protective garments and disposable items used in furtherance of completing the Work; waste management and disposal; prevailing wage labor; supplies; and non-specialty equipment required to perform the work as specified herein. **See Exhibit H, Scope of Work/Specifications, for details.**

Contractor shall be required to provide the necessary trained personnel and supervision to perform **FLOORING REPAIR SERVICES** on an "as needed" basis at O'Connor Hospital and O'Connor Medical Office Building as describe herein.

1.03 EMERGENCY RESPONSE

The Contract requires Contractor to be available on-call 24/7, including to respond to emergency calls within 1 hour and arrive onsite within 2 hours from when the emergency call was received. See Exhibit H – Scope of Work, Section VII (Service Call and Response Time).

1.04 BID MARKING

Bids must be in a sealed envelope and addressed to:
County of Santa Clara – Facilities and Fleet
Attn.: Rocio Reyes, Contract Administrator
2310 N. First Street, Suite 200
San Jose, CA 95131

ITB-FAF-FY21-0168, FLOORING REPAIR SERVICES
Due: February 2, 2021 @ 3:00 p.m.

1.05 BIDDER'S SECURITY

- A. Each bid must be accompanied by cash, a certified or cashier's check, or a bond in the sum of not less than 10% of the total aggregate of the bid price, including all additive bid items. For the purpose of the security for this bid, the total aggregate amount is equal to the Contract Sum of two hundred thousand dollars (\$200,000).
- B. The check or bond must be made payable to "The County of Santa Clara."

1.06 BID OPENING

- A. The Director of Facilities and Fleet Department, or designee, will open bids at the time and place stated above, as amended by addenda, if applicable.
- B. For the duration of the County emergency due to COVID-19 and requisite social distancing requirements by order of the Public Health Officer, the opening of bids shall be made available to the public via video teleconference, a link to which will be posted via Addendum to the Invitation to Bid no later than 72 hours before the time scheduled for the opening of bids.

1.07 ERRORS OR DISCREPANCIES IN THE BIDS

The County reserves the right to reject any and all bids and to waive any non-material errors or discrepancies in the bids.

ARTICLE II — OTHER NOTICES**2.01 CONTRACTOR'S LICENSING REQUIREMENT**

Contractor must possess a license issued by the California Contractor's State License Board for a C-15 Flooring and Floor Covering Contractor's License at the time the bid is submitted, pursuant to Business & Professions Code section 7028.15.

2.02 PREVAILING WAGE REQUIREMENT; DIR REGISTRATION

The Work is subject to the payment of not less than prevailing wages under Labor Code section 1770 *et seq.* The work is subject to compliance monitoring and enforcement by the Department of Industrial Relations. All contractors must be registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 in order to submit a bid. All subcontractors listed in the bid proposal must also be registered with the Department of Industrial Relations. No contractor or subcontractor may be awarded a contract for public work, or perform work, on a public works project unless registered with the Department of Industrial Relations. Additional information regarding prevailing wage requirements is available upon request from the Office of the Clerk of the Board of Supervisors, or on the State of California Department of Industrial Relations website: www.dir.ca.gov

2.03 ENFORCEMENT OF LABOR LAW IN PUBLIC WORKS

The Labor Commissioner's Office, also called the Division of Labor Standards Enforcement ("DLSE"), is part of the California Department of Industrial Relations. The Public Works Unit of the Labor Commissioner's Office actively monitors public works projects and may investigate asserted violations.

Any member of the public can report an alleged violation of the state's labor laws on a public works project to the Labor Commissioner's Office. To learn more, visit the Labor Commissioner's website: www.dir.ca.gov/dlse/HowToFilePWComplaint.htm

The Labor Commissioner's Office in the County of Santa Clara can also provide instruction on how to file a complaint and where a violation should be reported. The Labor Commissioner's Office in the County of Santa Clara is located at the following address:

Divisions of Labor Standards Enforcement ("DLSE")
100 Paseo de San Antonio, Room 120
San Jose, CA 95113
Phone: (408) 277-1266

2.04 BONDS AND INSURANCE

- A.** The successful bidder must deliver a signed Agreement, payment bond, performance bond, and all required insurance documents to the Director of Facilities and Fleet for acceptance before Owner will execute the Agreement and issue a Notice to Proceed with the Work.
- B.** No Contract exists until the Owner has accepted all Contract Bonds and insurance documents and signed the Agreement.

2.05 RESERVED

2.06 AVAILABILITY OF BID DOCUMENTS

Bid Documents will become available at BidSync.com.

2.07 PRE-BID CONFERENCE

- A.** No Pre-Bid Conference has been scheduled for this solicitation.
- B.** Bidders should fully review the Bid Documents in all particulars before submitting a bid.

INSTRUCTIONS TO BIDDERS

ARTICLE I — GENERAL

- 1.01 Bidders must examine these Instructions to Bidders carefully and respond to all requirements and conditions.
- 1.02 Bidders must be aware of the requirements of codes referenced in the Bid Documents.
- 1.03 Unless otherwise defined herein, all definitions of terms used in these Instructions to Bidders are set forth in Contract General Conditions.

ARTICLE II — COMPETENCE OF BIDDERS

- 2.01 Bidders must meet all qualification requirements contained in the Bid Documents.
- 2.02 Any bidder may be required to furnish evidence satisfactory to Owner that the bidder and its proposed Subcontractors have sufficient means and experience in the type of Work required to assure satisfactory completion of all the requirements of the Contract Documents.

ARTICLE III — COMPLIANCE WITH CONTRACTOR'S LICENSE LAWS

- 3.01 The Contractor must possess the required classification of contractor's license, issued by the Contractor's State License Board, at the time the bid is submitted (per Business and Professions Code section 7028.15).
- 3.02 If a bidder does not possess the required contractor's license at the time a bid is submitted, the bid will be considered non-responsive and will be rejected by the Owner.

ARTICLE IV — PRIOR DISQUALIFICATION

Bid may be rejected on the basis of a bidder, any officer of such bidder, or any employee of such bidder who has a proprietary interest in such bidder, having been disqualified, removed or otherwise prevented from bidding on, or completing a federal, state or local project because of a violation of a law or a safety regulation.

ARTICLE V — EXAMINATION OF BID DOCUMENTS AND PROJECT SITE

- 5.01 The bidder must carefully examine the site of the Work and Bid Documents.
- 5.02 The submission of a bid will be conclusive evidence that the bidder has investigated and is fully aware of the conditions and difficulties that may be encountered in performing the Work, including the availability of labor and materials to be provided, of the character, quality and quantities of Work to be performed, and of the requirements of all Bid Documents.
- 5.03 No information derived from bidder's inspection of records of preliminary investigations made by Owner, or from the maps, drawings or Contract Documents relieve Contractor from any risk or from properly fulfilling all the terms of the Contract. Records of such preliminary investigations as may have been made by Owner may be inspected by contacting the Owner's Project Manager identified in the Notice to Bidders.

ARTICLE VI — CLARIFICATIONS AND ADDENDA

- 6.01** If any person contemplating submitting a bid is in doubt as to the intended meaning of any part of the Bid Documents, or finds discrepancies in, or omissions in the Bid Documents, that person must submit a written request for an interpretation or correction thereof to the Owner's Authorized Representative at least 3 calendar days before the deadline for receipt of bids.
- 6.02** Any interpretation or correction of the Bid Documents will be made only by written addendum distributed solely via BidSync.com.
- 6.03** Owner is not responsible for any explanation or interpretation of the Bid Documents not communicated to bidders in an addendum. Such addendum shall become part of the Bid Documents.

ARTICLE VII — BIDDER'S SECURITY

- 7.01** Each bid must be accompanied by cash, a certified or cashier's check, or an original Bidders Bond in an amount not less than 10% of the total aggregate of the bid, including all additive bid items, indicated in the Notice to Bidders, to be used in determining the low bid for the Project ("Bidder's Security").
- 7.02** The original Bidder's Bond must be provided by an admitted surety insurer, authorized to issue surety bonds in the State of California, and it must execute the Bidder's Bond.
- 7.03** Bonds and checks must be made payable to "The County of Santa Clara."
- 7.04** All bonds must be provided on the forms included with the Bid Documents or the bid will be considered non-responsive.

ARTICLE VIII — BID FORM AND SUBMISSION OF BID

- 8.01** Prospective bidders are furnished Bid Forms, which bidder must use to submit a bid. A bid not submitted on the forms furnished by the Owner, or that includes conditions, additional information or qualification of the bid in any manner will be considered a non-responsive bid. Owner will reject any bid that is qualified or that contains exceptions or conditions.
- 8.02** The Bid Form may solicit unit prices or lump sum pricing. All pricing must include full compensation for providing all labor, materials, services, tools, consumables, non-specialty equipment, supplies and whatever else is required to perform all Work in accordance with the requirements of the Bid Documents. Contractor must include in each unit price an amount considered by Contractor to be adequate to cover all Contractor's costs plus overhead and profit for each separately identified unit price item.
- 8.03** All bids must be submitted completed as follows:
 - A.** Bidder's name must be the same as listed on the bidder's contractor's license issued by the Contractor's State License Board.
 - B.** Bid price(s) must be in the manner required by the Bid Form.
 - C.** Unit Prices should accurately reflect all-inclusive costs and projected profit margins, and include all elements required for a professional and completed job.
 - D.** Bidders are required to bid Unit Prices that include all costs that bidders are expected to incur in the performance of the Work, except for the costs of specialty equipment as

discussed herein, and except for any separate items set forth on the Bid Form (e.g., fixtures). Specified costs to be included in Unit Prices shall include, but not be limited to:

1. All labor required to perform the Work with trained personnel and supervision;
 2. Payment of prevailing wage labor rates for Santa Clara County. **The County will deem bids nonresponsive if hourly rates fall below the minimum prevailing wage rates for the minimum classification or level for each type of worker, or if bids do not provide hourly rates for every type of worker;**
 3. All legally mandated costs associated with the Work (e.g., employer payroll taxes, obligations pursuant to any applicable collective bargaining agreements, et al.);
 4. All supplies required to perform the Work including, but not limited to, materials, tools, and consumables including, but not limited to, workers' supplies or protective garments;
 5. Disposable items used in furtherance of completing the Work;
 6. Equipment other than specialty equipment; and,
- E.** Bid Form must be signed by the bidder or duly authorized representative as specified in the bidder's Certifications.

- 8.04** Required Listing of Proposed Subcontractors: Bidder's attention is directed to the provisions of the Subletting and Subcontracting Fair Practices Act, related to reporting of subcontractors, and penalties for Contractor's use of unauthorized subcontractors, or unauthorized subcontractor substitutions. Bidder shall designate subcontractors as required on the Designation of Subcontractors Form.
- 8.05** Bid Forms must be completed in ink, completely filled out, and submitted on the Bid Form furnished as part of the Bid Documents. Faxed bids or modifications will not be considered by Owner.
- 8.06** It is the sole responsibility of the bidder to ensure that its bid is received at the proper time and at the proper location. Owner will return late bids unopened.
- 8.07** Each bid must be addressed to the Owner's Authorized Representative, and must be delivered to the address identified in the Notice to Bidders no later than the date and time set for the opening of bids in the published Notice to Bidders.
- 8.08** Each bid must be enclosed in a sealed envelope bearing the title of the Project, Project Number, the name of the bidder and the date and time of the opening. Failure to do so may result in a premature opening of, or failure to open, such bid. Bid Forms improperly marked may be disregarded.

ARTICLE IX — CONTRACTING PRINCIPLES

All bidders are required to sign and submit with their bid a completed Contracting Principles Declaration of Contractor, which has been included in the Bid Forms, which states that the successful bidder will, during the Contract Time:

- A.** Comply with all applicable federal, state, and local rules, regulations, and laws, and;
- B.** Maintain financial records adequate to show that the County funds paid pursuant to the Contract were used for purposes consistent with the terms of the Contract.

ARTICLE X — RESERVED

ARTICLE XI — WITHDRAWAL OF BID FORMS/RELIEF OF BIDDER

- 11.01** Any bid may be withdrawn at any time before the time fixed in the Notice to Bidders for the opening of bids only by written request of the bidder or a duly authorized representative.
- 11.02** After the opening of bids, bids may not be changed, and may only be withdrawn in accordance with the provisions of Public Contract Code sections 5100 through 5107.
- 11.03** To be relieved of the bid, bidder must give the Owner's Authorized Representative written notice within 5 business days, excluding Saturdays, Sundays, and holidays, after the opening of the bids of the mistake, demonstrating in the notice:
- A.** A mistake was made.
 - B.** The mistake made the bid materially different than the bidder intended it to be.
 - C.** The mistake was made in filling out the bid and not due to error in judgment or to carelessness in inspecting the site of the work, or in reading the plans or specifications.

Bids will be opened following receipt of bids at County's convenience. Bid opening results will be published on BidSync.com website.

ARTICLE XII — BID COLLUSION

More than 1 bid from an individual, firm, partnership, corporation, or combination thereof, as a principal, under the same or different names will not be considered. Reasonable basis for believing that any individual, firm, partnership, corporation, or combination thereof is a principal in more than 1 bid for the Work contemplated may cause the rejection of all bids in which such individual, firm, partnership, corporation, or combination thereof is a principal.

ARTICLE XIII — ESTIMATED QUANTITIES

- 14.01** The quantities stated in a schedule of items for which unit prices are asked to be bid are approximate only.
- 14.02** The quantities are given as a basis for the comparison of bids.
- 14.03** Owner does not, expressly or by implication, represent that the actual amount of Work will correspond with quantities given and reserves the right to increase or decrease the quantities of Work for any bid item, or to omit portions of the Work, as Owner may deem necessary or advisable.

ARTICLE XIV — AWARD OF CONTRACT

- 15.01** The Contract, if awarded, will be to lowest responsive and responsible bidder, subject to Owner's right to reject any or all bids and to waive any non-material informality or irregularity in the bids or in the bidding procedures.
- 15.02** No Contract is formed until all Contract Bonds and Insurance documents have been accepted by the Owner and the Agreement is signed by the Owner.

ARTICLE XV — CONTRACT BONDS

- 16.01 As a condition to Owner signing the Agreement, the successful bidder must file with Owner on the approved forms, the 2 surety bonds in the full amount of the contract described below, duly executed by a surety company meeting the requirements of Article X of the General Conditions.
- 16.02 The "payment bond for public works" must be in an amount of 100% of the Contract Sum as specified in the Notice to Bidders, and shall inure to the benefit of persons performing labor or furnishing materials in connection with the Work. This bond must be maintained in full force and effect until all Work is completed and Accepted by Owner, and until all claims for materials and labor have been paid.
- 16.03 The "performance bond" must be in an amount of 100% of the Contract Sum as specified in the Notice to Bidders, and must be so conditioned as to ensure the faithful performance by Contractor of all Work. It shall also include the replacing, or making acceptable, of any defective materials or faulty workmanship during the Guarantee period(s).
- 16.04 All changes to the Contract Sum, Contract Time, or Contract Documents may be made without securing the consent of the Surety or Sureties on the Contract Bonds.
- 16.05 Sureties must be California admitted sureties.

ARTICLE XVI — INSURANCE

Contractor shall be required to furnish to Owner, concurrently with execution of the Agreement, insurance documents evidencing coverage as required by the Contract Documents, Article X of the General Conditions.

ARTICLE XVII — EXECUTION OF CONTRACT AGREEMENT

- 18.01 The bidder to whom the Contract is Awarded by Owner must, within 10 calendar days after the Notice of Award, sign and deliver the following documents to the Owner on the form provided by Owner with these Bid Documents:
 - A. Executed Agreement form furnished by Owner in the Bid Documents;
 - B. The Performance Bond;
 - C. The Payment Bond for Public Works;
 - D. Insurance certificates and endorsements as required by the Bid Documents; and,
 - E. Executed Workers' Compensation Certification.
- 18.02 Contractor shall not begin Work in advance of the start date for the Work, which will be stated in the Notice to Proceed.

ARTICLE XVIII — FAILURE TO EXECUTE CONTRACT AGREEMENT

Failure of the successful bidder to execute the Agreement in the form satisfactory to Owner is just cause for the annulment of the Award and the forfeiture of the Bidder's Security.

ARTICLE XIX — NO ORAL AGREEMENTS

No conversation with any officer, employee, agent or Consultant of Owner, either before, during, or after the execution of the Agreement, affects or modifies any terms or obligations contained in the Contract Documents, nor entitle Contractor to any adjustment in the Contract Time or Contract Sum whatsoever.

ARTICLE XX — BID PROTEST**21.01 Protest Regarding the Legal Sufficiency of Procurement Documents and Process**

Any protest (including supporting documentation) relating to the legal sufficiency of the procurement documents or the procurement process must be emailed or hand-delivered or otherwise sent so that it is received by the Owner's Contract Administrator identified in the procurement documents by 5:00 p.m. no later than 10 calendar days after the release of the solicitation on BidSync. Any protests or materials not received by the deadline, or sent to any person other than the Owner's Contract Administrator, may be rejected or dismissed by the County at the County's sole discretion. Such protest must be in writing, and state the specific legal authority establishing the deficiency in the procurement documents or procurement process. Any bidder who fails to submit a timely protest subject to this provision shall be deemed to have waived any such protest. The County may respond by any appropriate means including, without limitation, issuing an addendum, issuing a letter to the protestor, or canceling the procurement.

21.02 Protest Regarding Award

The Owner's Contract Administrator will send an email or otherwise provide an announcement to all bidders informing each of the bid(s) that was/were selected or deemed to be a finalist. A bidder whose bid was not selected or not deemed to be a finalist may file a written protest within 5 business days of the date of such communication. Any protests or materials not received by the deadline, or sent to any person other than the Owner's Contract Administrator, may be rejected or dismissed by the County at the County's sole discretion.

Any protest on this basis must be in writing, and must be from someone who has submitted a bid. Subcontractors are not eligible to submit bid protests. A bidder may not rely on the bid protest submitted by another bidder, but must timely pursue its own protest.

21.03 Format of Bid Protest

The following must be written on the cover or subject line of the protest: "Protest Relating to [SOLICITATION NUMBER]." The written protest and all supporting documentation must be emailed, hand-delivered or otherwise sent to the Owner's Contract Administrator so that it is received no later than 5:00 p.m., 5 business days after the email or announcement notifying bidders of the County's selection or tentative decision. Any protests not received by the deadline, or sent to any person other than the Owner's Contract Administrator, may be rejected or dismissed by the County at the County's sole discretion.

The written protest must contain the following information:

- A.** The name, street address, electronic mail address, telephone number, and facsimile number of the protestor;
- B.** Signature of the protestor or its authorized representative;
- C.** Clearly stated grounds for the protest, and supporting information that forms the basis of the protest (including the specific portions of the Bid Documents, Bid, and/or applicable law or regulation that were not complied with);
- D.** Copies of any and all relevant documents; and,
- E.** The form of relief requested.

21.04 Grounds for Protest

- A. Protests should be concise and logically arranged. The protester may not present any additional grounds or arguments for protest after submission, unless requested by the County. All protest documents shall be public records.
- B. Protests may only be based on 1 or more of the following grounds, and must be supported by evidence and/or credible allegations as follows:
 - 1. The protester believes there was an error made by County officials or evaluation team members, such as a failure to award in accordance with specific portions of the Bid Documents and/or in compliance with applicable law or regulations. A difference of opinion regarding the scoring or points to be awarded to a proposal in any or all categories does not constitute an error for protest purposes.
 - 2. The protester believes there was misconduct or impropriety by County officials or evaluation team members.
 - 3. The protester believes there was abuse of discretion or process by County officials or evaluation team members.

21.05 Procedure Following Timely Submission of Bid Protest

The Director of the issuing department will review a timely protest and shall forward the same, along with his or her recommendation (if any), to an independent review officer ("IRO"). The protester shall be provided the Department's response to the protest, and an opportunity to respond within 5 business days. Thereafter, the IRO shall respond on behalf of the County. The IRO may, consistent with applicable law, use all available resources and information, including soliciting information from, and revealing information to, any entities or sources in its attempt to informally resolve the protest. The IRO may also contact the protester, the Agency/Department, or conduct a hearing.

The IRO will issue a written decision to the protester and the Department within 20 business days of receiving a protest. However, the time for decision may be extended by the IRO.

21.06 Limitation on Remedies

The remedies available pursuant to these procedures may include, but are not limited to, the reevaluation or the cancellation of a solicitation. However, no remedy may require the County to execute a contract with any entity, which authority is solely reserved for the Board of Supervisors or an official with appropriate delegated authority.

ARTICLE XXI — BASIS FOR AWARD OF CONTRACT

22.01 If the Owner elects to make an award, the Contract will be awarded to the "Responsible Bidder" submitting the lowest responsive bid pursuant to the Bid Form. "Responsible Bidder" (per Public Contract Code section 1103) is a bidder who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity, and experience to satisfactorily perform the public works contract. Owner reserves the right to reject this bid.

22.02 This bid must remain open and not be withdrawn for a period of 60 calendar days from the date prescribed for its opening.

- 22.03** Wherever in this bid an amount is stated in both words and figures, in case of discrepancy between words and figures, the words shall prevail.
- 22.04** If all or any portion of the bid is required to be given in unit prices and totals, and a discrepancy exists between the unit price and the product of the unit price and quantity, the unit price shall prevail.
- 22.05** If the bid is required to be given in individual bid item prices and a Total Base Bid price, and a discrepancy exists between the sum of the individual bid item prices and the Total Base Bid price so given, the sum of the individual bid item prices shall prevail.
- 22.06** Bidder certifies that it has thoroughly read and understands the Bid Documents and Addenda. Bidder hereby incorporates by reference the Bid Documents and Addenda as though set out in full, and all provisions of the Notice to Bidders published by Owner pertaining to the Work described in this bid.

GENERAL CONDITIONS

ARTICLE I — DEFINITIONS

1.01 DEFINITIONS: Wherever the following terms, or pronouns in place of them are used, the intent and meaning will be interpreted as follows:

- A. Accept/Acceptance/Accepted** – The formal acceptance by the Owner’s Authorized Representative of the Completion of the entire Work of the Contract as evidenced by the Notice of Completion, which to Owner’s knowledge has been performed in accordance with the requirements of the Contract Documents and all Approved modifications thereof.
- B. Addendum** – A written change to the Bid Documents issued before the time fixed for the opening of bids.
- C. Change Order** – A written amendment to the Contract, changing the Work, and/or the Contract Documents, and/or the Contract Sum, and/or the Contract Time, executed by the Board of Supervisors, or approved by the Owner’s Authorized Representative within the limits authorized by the Board of Supervisors.
- D. Claim** – A separate unresolved Dispute by the Contractor for: (1) a Contract Time extension, (2) 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 (3) an amount the payment of which is disputed by the Owner.
- E. Completion** – Acceptance of the Work.
- F. Contract Bonds** – The Performance Bond and the Payment Bond for Public Works.
- G. Contract Documents** – The Owner/Contractor Agreement, General Conditions, Performance Bond, Payment Bond, Plans and Specifications, addenda, substitutions, and change orders, list of subcontractors, and Instructions to Bidders.
- H. Contract Sum** – The Contract Sum is stated in the Owner/Contractor Agreement and, including authorized adjustments by Change Order, is the total amount payable by Owner to the Contractor for performance of the Work pursuant to the Contract Documents.
- I. Contract Time(s)** – The Contract Time is the period of time, including authorized adjustments, identified in the Owner/Contractor Agreement for Completion of the Work.
- J. Contractor** – The person or persons, firm, partnership, corporation, or combination thereof, private or municipal, or the legal representatives thereof, that entered into the Contract with Owner. (Also known as “Prime Contractor” or “Original Contractor.”)
- K. County** – The County of Santa Clara, a political subdivision of the State of California. See “Owner.”
- L. Day(s)** – Calendar days unless otherwise designated.
- M. Deficiency List** – A written list of deficiencies in the completed Work. Also known as “Punch List.”

- N. Deficient Work** – Installed Work that does not meet the requirements of the Contract Documents.
- O. Director** – The Director of the County’s Facilities and Fleet Department.
- P. Emergency** – A sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services.
- Q. Field Modification** – A written instruction, clarification, or additional information issued by the Owner’s Project Manager to Contractor that does not change the Contract Time or Contract Sum but becomes part of the requirements of the Contract Documents.
- R. Final Inspection** – The inspection performed by the Owner after the Contractor has certified that the entire Work of the Project is complete.
- S. Incomplete Work** – Work required by the Contract Documents that is not yet installed or completed.
- T. Liquidated Damages** – The amount prescribed in the Owner/Contractor Agreement to be paid to Owner or to be deducted from any payments due, or to become due, Contractor for each Day’s delay in completing the Work, beyond the time(s) allowed in the Contract Documents plus approved time extensions.
- U. Notice of Completion** – A document filed with the County Recorder signifying that the Contract has been Completed and Accepted.
- V. Notice to Proceed** – The written notice issued by Owner’s Authorized Representative to Contractor whereby the Contractor is notified of the official construction Contract start date and authorizing the Contractor to proceed with the Work, and, if applicable, specifying the time within which the Contractor must commence the Work.
- W. Owner** – The County of Santa Clara, a political subdivision of the State of California. See “County.”
- X. Project** – The entire public improvement proposed by Owner to be constructed in whole or in part pursuant to the requirements of the Contract Documents, including any phasing or milestone requirements.
- Y. Project Manager** – The person identified in the Bid Documents as the Project Manager or subsequently designated by Owner’s Authorized Representative to manage the Contract and/or the Project. (Also known as Owner’s Project Manager or County Project Manager.)
- Z. Project Site(s)** – Space available to Contractor for performance of the Work, either exclusively or in conjunction with others performing other work as part of the Project.
- AA. Request for Information (“RFI”)** – A written request by the Contractor for information or clarification regarding the requirements of the Contract Documents. Requests for Information must be numbered sequentially and be presented in a format furnished by, or acceptable to, the Owner’s Project Manager. The Owner’s response to an RFI is considered an additional detailed instruction and does not change the requirements of the Contract Documents, Contract Time, or Contract Sum.
- BB. Retention** – A defined percentage of the Contract Sum held by the Owner pending Completion of the Work, or any portion of the Work.

- CC. Schedule of Values** – A document submitted by the Contractor to the Owner reflecting the portions of the Contract Sum allotted for the various parts of the Work. (Also known as “Cost Breakdown.”)
- DD. Shop Drawings** – Drawings, diagrams, schedules, and other data specially issued for the Work by the Contractor, Subcontractor, Sub-Subcontractor, or Supplier to demonstrate and/or illustrate the way by which the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for some specific portion of the Work. Shop Drawings are not considered Contract Documents.
- EE. Specifications** – The written directions, provisions, and requirements pertaining to the materials to be provided and the method and manner of performing the Work, including any Addenda and Approved revisions by Owner.
- FF. Subcontractor** – A contractor, within the meaning of the provisions of Business and Professions Code Chapter 9, Division 3, commencing with section 7000, who contracts directly with the Contractor to perform any Work of the Project. The term Subcontractor is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or its authorized representative.
- GG. Submittal** – Data or items required by the Contract Documents to be submitted by the Contractor to the Owner. Submittals demonstrate the method, materials, plan, or sequence the Contractor proposes to use to conform to the design concept expressed in the requirements of the Contract Documents. Submittals include, but are not limited to, Shop Drawings, Coordination Drawings, layouts, progress schedules, Substitution requests, samples, mockups, catalogs, product data and literature, equipment data sheets, maintenance data, and operating data. Unless otherwise stated in the Contract Documents, Submittals are not considered Contract Documents.
- HH. Substitution** – A material and/or process offered by the Contractor in lieu of the specified material and/or process, and accepted by the Owner’s Authorized Representative in writing as being equivalent to the specified material and/or process. (Also known as “Product Substitution.”)
- II. Supplier** – A person or organization contracting with Contractor, a Subcontractor, or a Sub-subcontractor to supply materials and/or equipment for the Work.
- JJ. Surety** – A company that provides Contractor’s bonds for bidding, performance and payment and is admitted as a surety insurer as defined in Code of Civil Procedure section 995.120(a).
- KK. Warranty** – A Contractor’s, Subcontractor’s, manufacturer’s, or material Supplier’s promise or assurance, written or otherwise, that its products and services provided meet industry and/or contractual standards of performance. (Also known as “Warranty/Guarantee.”)
- LL. Work** – That which is constructed or done pursuant to the requirements of the Contract Documents to accomplish the Project including, but not limited to, the provision of all labor, materials specialty and non-specialty equipment.

1.02 REPRESENTATIONS, CORRELATION, AND INTENT

- A.** By entering into the Agreement, Contractor represents it is familiar with the Project Site conditions, including the availability of labor and materials in the local geographic area

where the Work is to be performed, and has correlated personal observations with requirements of the Contract Documents.

- B.** The intent of the Contract Documents is to include all labor, materials, equipment, and all other items necessary for the proper execution and completion of the entire Work. Unless otherwise specifically noted, Contractor must provide and pay for all labor, materials, consumables, non-specialty equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and all other facilities and services necessary for the proper execution and completion of the Work. Specialty equipment may be billed at cost. Specialty equipment is defined as equipment that is required for completing work under the Contract Documents and is not commonly owned or used by Contractor and must be leased from a third party. Contractor must obtain advance approval from the County in writing for such leasing. The County reserves the right to reject the request and the right to provide Contractor such equipment as deemed necessary by the County.
- C.** Scale drawings, full sized drawings, and the Project Manual are intended to be complementary and to agree with the rest of the Contract Documents.
- D.** Owner, whose decision is final, will clarify questions regarding the interpretation of the Contract Documents.
- E.** Contractor is responsible for the complete and proper execution of the Work as described in, and as reasonably implied by, the Contract Documents. Contractor is solely responsible for ensuring that all Subcontractors, Suppliers, manufacturers, and anyone else working with any portion of the Contract Documents are fully aware that all the Contract Documents apply to their Work.

1.03 REQUESTS FOR INFORMATION

- A.** If Contractor discovers conflicts, omissions, or errors in the Contract Documents, or has any questions concerning interpretation or needs clarification of Contract Documents, Contractor must immediately submit to the Project Manager, in writing, an RFI that clearly and concisely sets forth the issue for which interpretation or clarification is sought and Contractor's interpretation or understanding of the requirements, along with reasons why it has reached such an understanding.
- B.** Responses to RFIs will be issued by Owner's Project Manager. RFI responses shall not change any requirement of the Contract Documents.
- C.** Should Contractor contend that a response to an RFI causes a change to the requirements of the Contract Documents, Contractor must, before proceeding, give written notice to Owner indicating that Contractor considers the response to the RFI to be a change to the requirements of the Contract Documents. Contractor may not proceed with Work that Contractor asserts to require a Change Order until Contractor and Owner have executed a Change Order, or Owner has directed Contractor to proceed with or without the asserted Change Order.

ARTICLE II — ADMINISTRATION OF THE CONTRACT

2.01 AUTHORITY OF OWNER'S AUTHORIZED REPRESENTATIVE

Owner's Project Manager shall decide all questions regarding the interpretation and fulfillment of the Contract, and the prosecution, progress, quality and acceptability of Work and material.

2.02 ADMINISTRATION OF THE CONTRACT

Owner will conduct periodic quality assurance inspections to determine the Contractor's compliance with the requirements of the Contract Documents.

Owner will complete compliance reports, on forms prescribed by Owner, to evaluate Contractor's performance. Compliance report components may include but are not limited to the following: Initial Job Estimate, Scheduling of Work, Qualified Labor/Supervisors, Tools and Equipment, Safeguards, Completion of Work, and Level of Quality. Contractors' performance (positive or negative) may be used to determine quality, fitness, and capacity to satisfactorily perform under the Contract Documents and may be considered in a future assessment of Contractor's responsibility, prequalification processes, or decisions to award contracts that do not require competitive bidding.

In the event of a negative compliance report, Contractor shall provide a written response, upon Owner's request and in accordance with directions from Owner, addressing the report and proposing corrective action.

2.03 BREACHES, DEFAULTS AND TERMINATION FOR CAUSE

If Owner deems that Contractor has persistently or repeatedly refused or failed to supply an adequate workforce, or material of proper quality or quantity, or otherwise refuses or fails to prosecute the Work, or any separable part thereof, with such diligence as will ensure its completion within the Contract Time(s) specified in the Contract Documents or authorized extension thereof, or if Contractor should fail to make prompt payment to Subcontractors or Suppliers, or persistently disregards laws, ordinances, or Owner's written directions, or has failed in any other respect to prosecute the Work with the diligence and resources required by the Contract Documents, Owner may, after providing at least 5 calendar days' prior written notice to Contractor identifying the defaults to be remedied, and Contractor's continued failure to remedy the default(s):

- A.** Provide any such labor and/or materials required to perform the Work or designated portion of the Work, and deduct the cost from any money due or to become due to Contractor; or,
- B.** If Owner considers that the default(s) constitute sufficient basis for such action, provide Contractor and Contractor's Sureties with an additional 5 calendar days' written notice, that if the defaults are not remedied, Owner will terminate the Agreement.

If Owner exercises its rights under Article II, Section 2.03(A), above, or terminates the Agreement under Article II, Section 2.03(B), above, Contractor shall not be entitled to receive any further payments until the entire Work is completed and Accepted by Owner. Contractor and its Sureties are liable to Owner for any additional cost of completing the Work, including compensation for additional managerial, administrative, and consulting services, plus the assessment of Liquidated Damages.

If Owner terminates the Agreement for cause, and it is later determined that the termination was wrongful, such default termination will automatically be converted to, and be treated as, a termination for convenience. In such an event, Contractor shall be entitled to receive only the amounts payable pursuant to Article II, Section 2.04, "Termination for Owner's Convenience," below, and Contractor specifically waives any Claim for any other amounts or damages, including, but not limited to, any Claim for consequential damages or lost profits.

2.04 TERMINATION FOR OWNER'S CONVENIENCE

Owner reserves its right to terminate this Contract, or any part thereof, for its sole convenience, upon written notice to Contractor. In the event of such termination, Contractor shall immediately suspend all Work hereunder, and must immediately cause any and all of its Subcontractors, Sub-

Subcontractors, and Suppliers to cease work. Contractor shall not be paid for any work performed, or costs incurred, that reasonably could have been avoided.

Contractor shall be paid in accordance with the provisions of Article VII, "Payments," except that the amount due Contractor shall be based upon Owner's estimate of Work completed, or acceptable materials provided but not used, to the date of suspension of the Work, less any amounts required to be withheld pursuant to Article VII, "Payments," and less any prior payment(s) made to, or on the account of Contractor.

2.05 SUSPENSION BY OWNER FOR CONVENIENCE

Owner's Authorized Representative may order Contractor in writing to suspend, delay, or interrupt all, or any part of, the Work for such periods of time as Owner's Authorized Representative may determine to be appropriate for Owner's convenience, or any other reason.

Contractor shall immediately comply with Owner's written order to suspend, delay, or interrupt Work, or any part thereof.

An adjustment will be made for increases in the cost and time for performance of the Work, including profit on the increased cost of performance caused by suspension, delay, or interruption.

2.06 ASSIGNMENT

Contractor shall bind itself, as well as all of Contractor's partners, successors, assigns, and legal representatives to Owner in respect to the covenants, agreements, and obligations contained in the Contract Documents. Contractor must not assign the Contract, either in whole or in part, without written consent of Owner. If Contractor makes such an assignment without Owner's written consent, Contractor shall remain legally responsible for all Contractor obligations in the Contract Documents.

Owner will not consent to an assignment that would operate to relieve Contractor, or Contractor's Surety/Sureties, of their responsibilities pursuant to the Contract Documents.

Contractor may assign monies due, or to become due pursuant to the Contract, through an amendment to the Contract. Any assignment of monies earned by Contractor is subject to all proper withholdings and retention in favor of Owner, and provided for in the Contract Documents. All monies withheld, whether assigned or not, are subject to being used by Owner to the extent permitted by law, for the Completion of the Work in the event that Contractor is in default of the Contract.

2.07 NOTICE

Any notice from one party to the other must be dated and signed by the party giving such notice, or by a duly authorized representative of such party. No notice is effective for any purpose unless served in the following manner:

- A.** If the notice is provided to Owner, it shall be made by personal delivery to Owner's Authorized Representative, or by depositing the same in the United States mail, enclosed in a sealed envelope, addressed to Owner's Authorized Representative at the address stated in the Contract Documents, First Class postage prepaid.
- B.** If the notice is provided to Contractor, it shall be made by personal delivery to Contractor, or to Contractor's Authorized Representative, at the Project Site, or by depositing the same in the United States mail, enclosed in a sealed envelope, addressed to Contractor at the address stated in the Contract Documents, First Class postage prepaid.

- C. If the notice is provided to the Surety or any other person or entity, it shall be made by personal delivery, or by depositing the same in the United States mail, enclosed in a sealed envelope, addressed to such Surety or other person or entity at the address of such stated in the bond documents, or as stated in the Contract Documents.
- D. Deposit of any notice in the United States mail will be deemed the date of receipt thereof.

2.08 AUDITS AND ACCESS TO RECORDS

Contractor shall maintain all books, records, documents, and other evidence directly pertinent to the performance of the Work, in accordance with generally accepted accounting principles and practices consistently applied for a period of 5 years after final payment. Contractor shall also maintain all financial information and data used by Contractor in the preparation or support of any cost submission, including Contractor's bid estimate, any change order, dispute, claim, pay application, or other request for equitable adjustment. Owner and its representatives will have access upon 24 hours advanced written notice, at all times during normal business hours, to all of Contractor's books, summary reports, records, accounts, estimates, documents, detailed financial information, certified payroll records, and all other relevant information and documentation for the purposes of inspection, audit, and copying. Contractor shall, at no cost to Owner, provide proper facilities for such access, inspection and copying purposes. Pursuant to Government Code section 8546.7, Contractor acknowledges and agrees that it is also subject to audit by the California State Auditor.

The right of access provisions of this section apply to all financial records pertaining to this Contract:

- A. To the extent the records pertain directly to Contract performance;
- B. To the extent required for verification of the costs incurred where such costs are the basis for billings pursuant to this Contract, including Change Orders;
- C. To the extent there is any indication of violation of the California False Claims Act, or that fraud, gross abuse, or corrupt practices may be involved; or,
- D. If the Contract is terminated either for default or convenience.

2.09 GOVERNING LAW

This Contract shall be interpreted and enforced in accordance with the laws of the State of California. Pursuant to Code of Civil Procedure section 394, proper venue for legal action arising out of this Agreement is in the County of Santa Clara, State of California. Both parties hereto agree that personal and subject matter jurisdiction is proper in the County of Santa Clara, State of California.

ARTICLE III — CONTRACTOR'S RESPONSIBILITIES

3.01 GENERAL RESPONSIBILITIES

- A. Contractor must supervise and direct the Work using its best skill and attention.
- B. Contractor shall be solely responsible for all construction means, methods, techniques, operations, sequences, and procedures, and for coordinating all portions of the Work.

- C.** Contractor shall be responsible to Owner for the acts and omissions of Contractor's employees, Subcontractors, Suppliers, their agents and employees, and all other persons performing any Work pursuant to a contract with Contractor.
- D.** Contractor shall not be relieved from its obligations to perform the Work in accordance with the requirements of the Contract Documents, either by the activities or duties of Owner or Owner's Consultants in their administration of the Contract, or by inspections, tests, acceptance, or approvals required or performed by persons other than Contractor.
- E.** Contractor must at all times enforce good order and discipline among its employees, and must not employ anyone not skilled in the task assigned in relation to the Work.
- F.** Contractor represents and warrants to Owner that all materials and equipment provided pursuant to the Contract are new unless otherwise specified, and that all Work is of good quality, free from faults and defects and in conformance with the requirements of the Contract Documents. All Work not conforming to these requirements, including substitutions not properly accepted and authorized by Owner's Authorized Representative may be considered defective by Owner. Upon request by Owner at any time, Contractor shall furnish evidence satisfactory to Owner demonstrating the quality of installed materials and equipment.
- G.** Unless otherwise provided in the Contract Documents, Contractor shall provide and pay for all labor, materials, consumables, non-specialty equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.
- H.** Contractor has charge and care of all Work and all materials to be used therein (including materials for which Contractor has received partial payment or materials which have been furnished by Owner) until Acceptance of the Work. Contractor solely bears the risk of injury, loss, or damage to any part thereof by the action of the elements, or from any other cause, whether arising from the performance or nonperformance of the Work, except as otherwise expressly provided.
- I.** Contractor shall rebuild, repair, restore, and make good all injuries, losses, or damages to any portion of the Work or the materials by any cause before Completion and Acceptance.

3.02 REVIEW OF FIELD CONDITIONS BY THE CONTRACTOR

- A.** Contractor shall take field measurements, verify field conditions, and compare such field measurements, conditions, and other related information known to Contractor with the requirements of the Contract Documents prior to commencing the Work.
- B.** In accordance with Public Contract Code section 7104, when performing work involving digging trenches or other excavations that extend deeper than 4 feet below the surface, Contractor shall promptly, and before such conditions are disturbed, notify Owner in writing of:

 - 1.** Material that Contractor believes may be material that is hazardous waste, as defined in Health & Safety Code section 25117, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with applicable laws.
 - 2.** Subsurface or latent physical conditions at the site differing from those indicated by information about the site made available to bidders prior to the deadline for submitting bids.

3. Unknown physical conditions at the site of any unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in Work of the character provided for in the Contract Documents.
- C. In response to Contractor's written notice as required by Public Contract Code section 7104:
1. Owner will promptly investigate the conditions, and if Owner finds that such conditions materially differ, or involve hazardous waste, and cause an increase or decrease in Contractor's cost of, or the time required for, performance of any part of the Work, a Change Order will be issued in accordance with Article V, "Changes in the Work."
 2. In the event that a Dispute arises between Owner and Contractor whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in Contractor's cost of, or time required for, performance of any part of the Work, Contractor shall not be excused from any completion date(s) provided for by the Contract Documents, but shall proceed with all Work to be performed under the Contract. Contractor will retain any and all rights provided either by Contract or by law that pertain to the resolution of Disputes and protests between the contracting parties.

3.03 PROJECT SITE

Contractor shall provide Owner with continuous access to the Work. Contractor shall confine operations at the Project Site to areas designated by the Owner's Project Manager, and must not unreasonably encumber the Project Site with any materials, equipment, temporary structures, or temporary measures.

3.04 WORKPLACE ENVIRONMENT

The use or possession of alcohol, weapons, or illegal controlled substances by Contractor, or others subject to Contractor's control, on County property is prohibited.

Contractor shall ensure and maintain a workplace environment free of personal harassment and intimidation, including, but not limited to, the following:

- A. Verbal harassment, e.g., epithets, derogatory comments or slurs;
- B. Physical harassment, e.g., assault, impeding or blocking movement, gestures, staring, or any physical interference with normal work or movement; or,
- C. Visual forms of harassment, e.g., derogatory posters, letters, poems, graffiti, cartoons, or drawings.

Unwelcome and unwanted sexual advances constitute sexual harassment that is prohibited. For example, requests for sexual favors and verbal or physical conduct of a sexual nature are prohibited.

If in the opinion of Owner's Project Manager, any employee of Contractor or Contractor's Subcontractors violates the prohibitions of this section, Contractor shall immediately remove that person or Subcontractor from the Project upon Owner's request, and such person or Subcontractor must not be permitted to perform further Work on the Project Site.

3.05 CONTRACTOR'S AUTHORIZED REPRESENTATIVE

Prior to Contractor mobilization to the Project Site, Contractor must identify, in writing, Contractor's Authorized Representative who will have the authority to represent and act for Contractor at the Project Site. Communications provided to the Contractor's Authorized Representative shall be as binding as if provided directly to the Contractor.

3.06 DISRUPTION OF OWNER'S NORMAL OPERATIONS

Contractor shall give timely advance notice to Owner of Work that is likely to be disruptive to Owner's normal operations at or near the Project Site. If Contractor does not so advise Owner, Owner has the right to temporarily suspend Contractor's Work or to require Contractor to modify its Work operations to eliminate any disruption, and Contractor shall not be entitled to any adjustment in the Contract Sum or Contract Time for any delay or additional costs associated therewith.

3.07 LABOR

A. Hours of Labor

8 hours labor constitutes a legal day's work. Contractor shall forfeit as a penalty to Owner, \$25.00 for each worker employed in the execution of the Contract by Contractor or any Subcontractor for each calendar day during which such worker is required or permitted to work more than 8 hours in any one calendar day, or 40 hours in any one calendar week, in violation of the provisions of the Labor Code, in particular, Sections 1810 through 1815 thereof, except that work performed by employees of Contractor or any Subcontractor in excess of 8 hours per day, or 40 hours during any one week, shall be permitted upon compensation for all hours worked in excess of 8 hours per day, or 40 hours per week, at not less than 1.5 times the basic rate of pay, as provided in Labor Code section 1815.

B. Prevailing Wage

1. Prevailing Wages: The Work is subject to the payment of not less than prevailing wages under Labor Code section 1770 *et seq.* The Director of Industrial Relations has ascertained the general prevailing rate of per diem wages, and the rates for overtime and holiday work in the locality in which the Work is to be performed for each craft, classification, or type of worker needed to perform the Work under the Contract. Copies are on file with and available upon request from the County's Office of the Clerk of the Board of Supervisors, or at the DIR's website, <https://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>. This Project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. Further information on Compliance Monitoring Unit requirements can be found at <https://www.dir.ca.gov/>.
2. No contractor or subcontractor may perform work on the Project unless registered with the Department of Industrial relations pursuant to Labor Code section 1725.5. Contractor represents and warrants that it is registered with the Department of Industrial Relations. Contractor shall maintain its registration with the Department of Industrial Relations throughout the course of the Work. Contractor is responsible for verifying that each Subcontractor, including any Subcontractor not listed on the bid proposal for the Project, is registered with the Department of Industrial Relations at the time the Subcontractor performs Work on the Project. If any Subcontractor is not registered at the time the Subcontractor is to commence Work, Contractor shall require the Subcontractor to register and may not permit the Subcontractor to commence Work until the Subcontractor's registration is complete.

3. Contractor shall pay those technicians that are assigned to service the County under the contract a rate not less than the Determined Prevailing Wage Rate for work of a similar character in the locality in which the work is performed, and not less than the general prevailing rate of per diem wages for legal holiday and overtime work in said locality. Said per diem wages shall not be less than the stipulated rates contained in a schedule thereof which has been ascertained and determined by the Director of the Department of Industrial Relations and the Board of Supervisors to be the general prevailing rate of per diem wages for each craft, or type of workman or mechanic, needed to execute this Contract. This information is on file in the County's Office of the Clerk of the Board of Supervisors, where it is available to any interested party upon request, and it is by reference incorporated herein and made a part hereof.
4. Contractor shall maintain certified payroll records in accordance with Labor Code section 1776 for each employee employed in connection with the Project. Upon request by Owner, Contractor shall produce such records within 10 days.

C. Apprentices

It is Owner's policy to encourage the employment and training of apprentices on public works contracts in accordance with local apprenticeship standards. Contractor's attention is directed to the provisions of Labor Code sections 1777.5 and 1777.6 regarding the employment of apprentices by Contractor and any Subcontractors, and Labor Code section 1777.7 regarding penalties for noncompliance. Contractor is solely responsible for compliance with Section 1777.5 for all apprenticeable occupations involved in the Project, and shall require compliance from all Subcontractors as applicable. Pursuant to Section 1777.5, Contractor agrees to provide to Owner upon request copies of the Public Works Contract Award Information (Form DAS-140) sent to apprenticeship committee(s) for each apprenticeable craft or trade involved in the Project. Contractor also agrees to provide immediately upon request a Department of Apprenticeship Standards ("DAS") printout with the names and registration information of any workers that are working on the Project as apprentices pursuant to Section 1777.5.

3.08 CLEANUP

- A. Contractor shall continuously keep the Project Site and surrounding areas free from waste materials and/or rubbish caused by its operations, or rubbish from any source that accumulates within the Project Site, as well as any other area designated by the Owner's Project Manager for use by the Contractor.
- B. If Contractor fails to clean up as required by these Contract Documents, Owner may do so and the cost shall be charged to the Contractor and deducted from progress payments due, or to become due, to Contractor.

3.09 DISPOSAL OF MATERIAL OUTSIDE PROJECT AREA

Contractor shall be responsible for making all arrangements and paying all costs for disposal of materials outside the Project area at appropriate disposal sites.

3.10 HAZARDOUS MATERIALS

Contractor shall comply with all federal, state, county, and local laws, statutes, ordinances, and other regulations regarding the use, storage, transportation, and disposal of any Hazardous

Materials on the Project. Except as stated elsewhere herein, Contractor shall obtain all permits and pay all fees and taxes for all services and materials required to perform the Project.

The term "Hazardous Materials" as used herein means any material that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment.

Prior to starting Work, Contractor shall submit to Owner a list of all Hazardous Materials expected to be used on the Project. Contractor shall keep a copy of the list at the Project Site. This list must include, but not be limited to, any cleaners, solvents, paints or explosive charges used in the Work. Contractor must submit 1 copy of a Occupational Safety and Health Administration ("OSHA") Safety Data Sheet ("SDS") for each material listed, and must advise every person at or near the Project Site of these materials, of proper handling, and of proper action in case of accident or exposure.

Contractor shall safely contain and store all its Hazardous Materials, and in the event of spill or discharge, shall immediately notify all required federal, state, county, and local agencies, including the fire department. Contractor shall protect personnel from exposure and provide treatment as necessary.

Contractor immediately advise Owner of any potentially Hazardous Materials encountered at the Project Site, and shall take all necessary action to prevent exposure of personnel until the material is identified and proper action can be taken.

Contractor shall not store or use any Hazardous Materials near air intakes or doors and windows serving persons on or off the Project Site without proper protection and safeguards to prevent exposure.

Contractor shall exercise all required precautions and safeguards in the storage, use, and disposal of Hazardous Materials.

3.11 TRENCHING AND EXCAVATION

Before any excavation, Contractor shall, pursuant to Government Code section 4216 *et seq.* and Cal/OSHA Safety Orders codified in Title 8, Section 1540 *et seq.* of the California Code of Regulations, outline the excavation in white paint (preferably chalk or water base), provide two workdays notice to Underground Service Alert ("USA") (1-800-227-2600 or 811), obtain a locator number, and follow all necessary procedures to avoid underground facility damage.

Before any excavation 5 feet or more in depth:

- A.** Contractor shall, pursuant to Labor Code section 6705, submit to Owner specific plans showing details of provisions for worker protection from caving ground. This in no way relieves Contractor from the requirement of maintaining safety in all operations performed by Contractor or Subcontractors. Contractor is required to submit 4 copies of the plans.
- B.** The detailed plans showing design of all shoring, bracing, sloping, or other provisions shall be prepared at Contractor's sole expense by a California registered Civil or Structural Engineer. Owner's acceptance only constitutes acknowledgment of the submission, and does not constitute review or approval of the designs, design assumptions, criteria, accuracy, completeness, suitability for use, implementation, or any other quality of the plans, which are solely the responsibility of Contractor and Contractor's Engineer.

3.12 TESTS AND INSPECTIONS

Contractor shall, at all times, permit Owner, its agents, officers, employees, and representatives to visit the Project Site and inspect the Work, including shops where Work is in preparation. When the Contract Documents require a portion of the Work be tested, such portion of Work must not be covered up until inspected and accepted by Owner. Contractor shall be solely responsible for notifying Owner's Project Inspector where and when the Work will be ready for inspection and testing.

3.13 SUBMITTALS

- A.** Shop Drawings, Product Data, Samples and similar Submittals are not Contract Documents. Their purpose is to demonstrate those portions of the Work for which Submittals are required, and the way Contractor proposes to conform to the information provided, and the design concept expressed in the Contract Documents.
- B.** Owner's review of Submittals is for general compliance with the requirements of the Contract Documents. Contractor shall be solely responsible for all quantities, dimensions, weights, gauges, materials, fabrication processes, construction methods, coordination with the Work of other trades, and construction safety precautions. Owner's review of Contractor's Submittal(s) does not relieve Contractor of any responsibilities for the successful completion of the Work in conformity with the requirements of the Contract Documents.

3.14 SUBSTITUTIONS

- A.** Whenever in the Contract Documents any material, product, thing, or service is indicated or specified by grade, patent, brand, trade, or proprietary name, or by manufacturer, such specifications shall be deemed to be followed by the term "or equal" unless the Contract Documents provide that use of the item specified is supported by a finding based on one or more of the reasons stated in Public Contract Code section 3400(b).
- B.** Contractor may submit a proposal for an "or equal" material, product, thing, or service in sufficient advance time so as to allow Owner proper review.
- C.** The burden of proof as to the equality of any material, product, thing, or service Contractor proposes for Product Substitution is the responsibility of Contractor.

3.15 COMPLIANCE WITH LAWS AND REGULATIONS

Contractor shall keep informed of federal, state, county, and local governmental regulations that may affect the Work, including but not limited to, regulations affecting workplace safety, air pollution, water pollution and noise levels. Contractor shall observe and comply with, and must cause all agents, employees, Subcontractors, and Suppliers to observe and comply with such regulations. Contractor shall hold harmless and indemnify Owner and all its officers, employees and consultants against any liability or claim arising from or based upon the violation of any such regulations by Contractor, its agents, employees, representatives or Subcontractors and Suppliers.

3.16 TAXES, UTILITIES, PERMITS, AND FEES

- A.** Taxes: Contractor shall pay any or all taxes imposed by federal, state, county, or local governments, that were legally enacted as of the bid date, or subsequently enacted during the Contract Time, including but not limited to federal excise tax and all state and local sales and use taxes. Owner will not furnish any tax exemption certificate or any document designed to exempt Contractor from payment of any tax on labor, services, materials, transportation, or any other items provided by Contractor pursuant to the Contract Documents.

- B.** Utilities: Pursuant to Government Code section 4215, Owner shall assume the responsibility, between it and Contractor, for the timely removal, relocation, or protection of existing main or trunklike utility facilities located on the Project site, but only if such utilities are not identified by Owner in the Contract Documents, including, but not limited to, the plans, specifications, or bidding documents. If, during the Work, Contractor encounters such utilities within the purview of Government Code section 4215, Contractor may be compensated for the costs of locating and/or repairing damage not due to the failure of Contractor to exercise reasonable care, and/or may be compensated for removing or relocating such utility facilities not indicated in the plans and specifications with reasonable accuracy, and for equipment on the project necessarily idled during such work. In such event, Contractor may not be assessed liquidated damages for delay in completion of the Project, when such delay was caused by Owner, or the utility owner, to provide for the removal or relocation of such utility facilities. Nonetheless, pursuant to Government Code section 4215, Owner is not required to indicate the presence of existing service laterals or appurtenances whenever the presence of such utilities on the Project Site can be inferred from the presence of other visible facilities, including, but not limited to, buildings, meter, and junction boxes. At all times, Owner reserves all rights and remedies, including, but not limited to, those against the utility owner. If, during the Work, Contractor discovers utility facilities not identified by Owner in the Contract Documents, Contractor shall immediately notify Owner and utility owner in writing. If Owner is the utility owner, Owner shall have sole and absolute discretion to perform repairs or relocation work, or permit Contractor to do such repairs or relocation work at a reasonable price.
- C.** Permits & Fees: Contractor shall obtain and pay for all building permits, encroachment permits, and all other permits and governmental fees, licenses and inspections necessary for the proper execution and completion of the Work, unless otherwise provided elsewhere in the Contract Documents.
1. Contractor shall give all necessary notices, and comply with all laws, ordinances, rules, regulations, and lawful orders relating to the Work, and to the preservation of the public health and safety.
 2. If Contractor performs any work contrary to such laws, ordinances, orders, rules and regulations, Contractor shall bear all costs attributable thereto.
 3. Contractor will not be charged for any building permit required by County ordinances and issued by the County of Santa Clara.
 4. Upon receipt, Contractor shall submit 4 copies of all Contractor-obtained permits to the Owner.
 5. Contractor must arrange, coordinate, and pay for all permit-related inspections unless otherwise provided in the Contract Documents.
 6. Patent, Royalties & License Fees: Contractor shall pay all patent, royalties, and license fees, and must defend all suits or claims for infringement of any patent rights, and save Owner and its Consultants on this Project harmless from loss on account thereof.

3.17 RESERVED

3.18 NON-WAIVER

Neither Acceptance of, nor payment for the Work or any part thereof, nor any extension of the Contract Time, nor any possession or use by Owner, will operate as a waiver of any of the provisions of the Contract, nor will a waiver of any breach of the Contract be held to be a waiver of any other prior or subsequent breach.

3.19 UNFAIR BUSINESS PRACTICES CLAIMS

Contractor's attention is directed to the following provisions of the Public Contract Code section 7103.5 and Government Code sections 4550 through 4554, which are applicable to Contractor and its Subcontractors: In entering into a public works contract or a subcontract to supply goods, services, or materials pursuant to a public works contract, 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 pursuant to Section 4 of the Clayton Act (15 U.S.C. section 15), or pursuant to 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.

3.20 CONFORMITY WITH CONTRACT DOCUMENTS & ALLOWABLE DEVIATIONS

- A.** The Work must comply with all governing codes, including standards referred to by such codes and the Contract Documents, except said requirements are considered as minimum. When the Contract Documents call for materials of higher quality or performance, or larger sizes or capacity than required by said codes or standards, the requirements of the Contract Documents take precedence. This requirement does not operate to allow deviations from minimum code requirements.
- B.** If Owner notifies Contractor of any observed noncompliance with the requirements of the Contract Documents, Contractor must take immediate corrective action upon receipt of such notice. If Contractor fails or refuses to promptly comply with any notice of noncompliance, Owner may, in addition to other remedies provided by law and/or the Contract Documents, undertake the corrective work or repair, and deduct Owner's costs for same from any sums due Contractor.

3.21 MATERIALS

Material specified by reference to the number, symbol, title, or a specific standard, such as a commercial standard, a federal specification, a trade association standard, or other similar standard, must comply with the requirements thereof.

Contractor warrants free and clear title to all material, supplies, and equipment installed or incorporated in the Work, and agrees upon Completion of the Work to deliver the premises, together with all improvements and appurtenances constructed or placed thereon by Contractor, to Owner free from any claims, liens, or charges of any kind.

Nothing in the Contract Documents shall be construed as vesting in Contractor any right of property ownership in the materials used in the Work after they have been attached or affixed to the Work or the soil, or after payment has been made for 90% of the value of materials delivered to the site of the Work, or stored subject to or within the control of Owner. All such materials become the property of Owner upon being so attached or affixed or upon payment of 90% of the value of material delivered to the Work site, or stored subject to, or within, the Owner's control.

ARTICLE IV — SUBCONTRACTORS, SUBLETTING AND SUBCONTRACTING

- A.** Contractor shall schedule and coordinate the Work of all Subcontractors;
- B.** Contractor shall adhere to the rules governing subcontracting as set forth in the Subletting and Subcontracting Fair Practices Act, in Public Contract Code section 4100 *et seq.* Subcontractor substitutions must be in accordance with provisions of the Subletting and Subcontracting Fair Practices Act. Violations of this Act by the Contractor may subject the Contractor to penalties and disciplinary action pursuant to the Subletting and Subcontracting Fair Practices Act.
- C.** Contractor shall be responsible for all Work performed pursuant to the requirements of the Contract Documents, including Work subcontracted to others. All persons engaged in the Work of the Project are the responsibility of, and subject to, the control of Contractor.
- D.** No Subcontractor will be recognized as such, and all persons engaged in the Work will be considered as employees of Contractor who is responsible for their work, which is subject to all the provisions of the Contract Documents.

ARTICLE V — CHANGES IN THE WORK

5.01 GENERAL

Owner may at any time, without notice to the Sureties, by written order, make changes in the Work within the general scope of the Contract, including additions, deletions or other revisions, changes in the Contract Documents, and in the method and manner of performing the Work. Such changes will be ordered in either of 2 ways:

- A.** Field Modification, which is the Project Manager's written instruction, clarification, or additional information directing or authorizing a minor adjustment in the Work or the requirements of the Contract Documents that does not change the Contract Sum or Contract Time; or,
- B.** Change Order, which is a written amendment to the Contract, changing the Work, and/or the Contract Documents, and/or the Contract Sum, and/or the Contract Time, executed by the Owner's Authorized Representative within the limits authorized by County Ordinance Code section A34-81.

Adjustment of the Contract Sum and/or Contract Time will be determined in accordance with Section 5.04, "Contractor's Acceptance of Change Orders," below.

5.02 UNIT PRICE WORK

- A.** If the final quantity of any item of authorized Work varies from the Owner's estimated quantity for that item of Work, the unit price for that item of work will be adjusted by Change Order.
- B.** All changes in Contract Sum and Contract Time due to quantity variations in unit price Work accepted are subject to approval by the Owner's Authorized Representative after Completion of the Contract by execution of a final balancing Change Order.

5.03 DIFFERING SITE CONDITIONS

- A.** Contractor shall immediately, and in any event not later than 24 hours after discovery, and before such conditions are disturbed, notify Owner in writing of:
 - 1.** Subsurface or latent physical conditions at the Project Site which Contractor asserts differ materially from those indicated in the Contract Documents; or,
 - 2.** Unknown physical conditions at the Project Site, of an unusual nature, which Contractor asserts differ materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Contract.
- B.** After receiving notice from Contractor regarding differing site conditions, Owner will promptly investigate the conditions. If Owner finds that such conditions do materially differ and cause an increase or decrease in Contractor's cost of, or the time required for, performance of any part of the Work pursuant to this Contract, whether or not changed as a result of such conditions, compensation will be adjusted in accordance with this Article.
- C.** Under no circumstances shall Contractor be entitled to an adjustment to the Contract Sum or Contract Time under to this section unless Contractor submitted the notice required Article 5.03(1), above.

5.04 CONTRACTOR'S ACCEPTANCE OF CHANGE ORDERS

Contractor's written acceptance of a Change Order constitutes final and binding agreement to the provisions thereof, and a waiver of all Claims in connection therewith, whether direct, indirect or consequential.

ARTICLE VI — TIME

6.01 CONTRACT TIME

- A.** Time is of the essence of this Contract.
- B.** Contractor shall complete the entire Work of the Project and designated portions thereof within the Contract Time(s) stated in the Bid Documents, or County's written extension(s) thereof.

6.02 NOTICE TO PROCEED

- A.** Owner's Notice to Proceed will state the first Day of the Contract Time.
- B.** Contractor must begin Work within the time stated in the Notice to Proceed.
- C.** Contractor shall not be allowed on the site of the Work until the Owner issues the Notice to Proceed.

ARTICLE VII — PAYMENTS

7.01 GENERAL

- A.** Unless otherwise expressly provided for, Contractor shall accept the Contract Sum provided in the Contract as full payment for all Work.

- B.** Whenever Owner performs any portion of the Work, or corrects Contractor's incomplete or defective work, the cost thereof will be charged against Contractor, and may be deducted from any amount due or to become due from Owner.
- C.** Payment does not relieve Contractor from its other obligations pursuant to the Contract; nor is such payment to be construed to be acceptance of any of the Work.

7.02 RESERVED

7.03 INVOICES

Contractor shall provide the Owner's Project Manager an invoice by the 5th business day of the month following the month in which a service is completed. Invoice to include invoice number, invoice amount, payment amount and outstanding amount. Each invoice must be submitted on a form prescribed or approved by the County and *itemized* (for both materials and labor) and clearly identify the following information:

- Date of Service
- Type of Service
- Business Name and Site Address
- County Contact
- Proof of Service (Signed Service Request from County Personnel)
- Item Description, Unit Price(s), and Unit of Measure in accordance with the Contract Documents.
- Where applicable, fixtures shall be billed at cost plus markup equal to the amount bid by Contractor, not to exceed 15%, and documentation sufficient to prove actual cost must accompany the invoice.

Owner will pay Contractor within thirty (30) days after Owner's receipt of an undisputed and properly submitted invoice.

7.04 PRELIMINARY NOTICES & STOP PAYMENT NOTICES

Contractor and Owner shall each comply with Civil Code section 9350 *et seq.*, regarding stop payment notices. Any preliminary notices, and all stop payment notices, must be sent to the Clerk of the Board of Supervisors at the address stated in the Notice to Bidders, and in accordance with the "STOP PAYMENT NOTICE INFORMATION" sheet in the Bid Form.

7.05 PAYMENTS WITHHELD

Owner may withhold payment(s) to Contractor, in whole or in part, as may be necessary to protect Owner from loss from but not limited to:

- A.** Defective work not remedied;
- B.** Failure of Contractor to make payments to Subcontractors for labor, materials or equipment;
- C.** Reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum, including any Liquidated Damages thereby due;
- D.** Damage to Owner, another contractor, the Work, to other work outside of or unrelated to the Contract, or any property;

- E. Reasonable evidence that the Work, or designated portions of the Work, will not be or had not been completed within the Contract Time;
- F. Stop payment notices;
- G. Failure or refusal of Contractor to fully comply with the Contract requirements; or,
- H. Amounts deemed necessary by the Owner to satisfy pending or reasonable anticipated suits or claims for damages.

Whenever Owner withholds any monies otherwise due to Contractor, Owner will furnish to Contractor written notice of the amount withheld, and the reasons underlying the withheld payment.

ARTICLE VIII — CLAIMS

8.01 DISPUTE RESOLUTION PROCESS

- A. Every dispute shall be stated with specificity in writing and presented to Owner in a “Notice of Dispute” within 10 Days from the date Contractor discovers, or reasonably should discover, the dispute. The Notice of Dispute shall be accompanied by all documents substantiating Contractor’s position regarding the dispute, and shall: summarize the dispute; identify all causes giving rise to the dispute; provide a chronology of relevant events; provide copies of all relevant documents; provide the amount, a detailed breakdown, and documentation of any costs or other monetary amount claimed; provide any pertinent scheduling data demonstrating any impact on the critical path, milestones, or contract time, and; include any photographs and contact information for any subcontractors or suppliers involved. Failure to include all relevant supporting documentation with a Notice of Dispute shall constitute a waiver, release, discharge, and relinquishment of any right to assert, request, or demand any entitlement to an adjustment of Contract Time or Contract Sum, to the extent such documentation was available to Contractor, but not included as part of the Notice of Dispute or any update to the Notice of Dispute.
- B. A timely Notice of Dispute is a condition precedent to Contractor seeking any further relief, including filing a claim.
- C. Owner will review the Notice of Dispute and issue a written decision within 30 calendar days from the date the Notice of Dispute and all supporting documentation are received by Owner. If Owner does not issue a decision on the dispute within 30 calendar days, Owner will be deemed to have rejected the dispute in its entirety. If Contractor intends to seek additional relief regarding any unresolved issues, Contractor shall proceed with the claims procedure below.
- D. Contractor shall require each subcontractor and supplier to comply with these disputes resolution procedures.

8.02 CLAIMS PROCEDURE

- A. Public Contract Code section 9204 relating to the resolution of construction claims between a public entity and contractor is hereby incorporated in this Contract, and the relevant portions are in italics below:

(c) For purposes of this section: (1) “Claim” means a separate demand by a contractor sent by registered mail or certified mail with return receipt requested, for one or more of the following:

(A) A time extension, including, without limitation, for relief from damages or penalties for delay assessed by a public entity under a contract for a public works project.

(B) Payment by the public entity of money or damages arising from work done by, or on behalf of, the contractor pursuant to the contract for a public works project and payment for which is not otherwise expressly provided or to which the claimant is not otherwise entitled.

(C) Payment of an amount that is disputed by the public entity.

(d) (1) (A) Upon receipt of a claim pursuant to this section, the public entity to which the claim applies shall conduct a reasonable review of the claim and, within a period not to exceed 45 days, shall provide the claimant a written statement identifying what portion of the claim is disputed and what portion is undisputed. Upon receipt of a claim, a public entity and a contractor may, by mutual agreement, extend the time period provided in this subdivision.

(B) The claimant shall furnish reasonable documentation to support the claim.

(C) If the public entity needs approval from its governing body to provide the claimant a written statement identifying the disputed portion and the undisputed portion of the claim, and the governing body does not meet within the 45 days or within the mutually agreed to extension of time following receipt of a claim sent by registered mail or certified mail, return receipt requested, the public entity shall have up to three days following the next duly publicly noticed meeting of the governing body after the 45-day period, or extension, expires to provide the claimant a written statement identifying the disputed portion and the undisputed portion.

(D) Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the public entity issues its written statement. If the public entity fails to issue a written statement, paragraph (3) shall apply.

(2) (A) If the claimant disputes the public entity's written response, or if the public entity fails to respond to a claim issued pursuant to this section within the time prescribed, the claimant may demand in writing an informal conference to meet and confer for settlement of the issues in dispute. Upon receipt of a demand in writing sent by registered mail or certified mail, return receipt requested, the public entity shall schedule a meet and confer conference within 30 days for settlement of the dispute.

(B) Within 10 business days following the conclusion of the meet and confer conference, if the claim or any portion of the claim remains in dispute, the public entity shall provide the claimant a written statement identifying the portion of the claim that remains in dispute and the portion that is undisputed. Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the public entity issues its written statement. Any disputed portion of the claim, as identified by the contractor in writing, shall be submitted to nonbinding mediation, with the public entity and the claimant sharing the associated costs equally. The public entity and claimant shall mutually agree to a mediator within 10 business days after the disputed portion of the claim has been identified in writing. If the parties cannot agree upon a mediator, each party shall select a mediator and those mediators shall select a qualified neutral third party to mediate with regard to the disputed portion of the claim. Each party shall bear the fees and costs charged by its respective mediator in connection with the selection of the neutral mediator. If mediation is

unsuccessful, the parts of the claim remaining in dispute shall be subject to applicable procedures outside this section.

(C) For purposes of this section, mediation includes any nonbinding process, including, but not limited to, neutral evaluation or a dispute review board, in which an independent third party or board assists the parties in dispute resolution through negotiation or by issuance of an evaluation. Any mediation utilized shall conform to the timeframes in this section.

(D) Unless otherwise agreed to by the public entity and the contractor in writing, the mediation conducted pursuant to this section shall excuse any further obligation under Section 20104.4 to mediate after litigation has been commenced.

(E) This section does not preclude a public entity from requiring arbitration of disputes under private arbitration or the Public Works Contract Arbitration Program, if mediation under this section does not resolve the parties' dispute.

(3) Failure by the public entity to respond to a claim from a contractor within the time periods described in this subdivision or to otherwise meet the time requirements of this section shall result in the claim being deemed rejected in its entirety. A claim that is denied by reason of the public entity's failure to have responded to a claim, or its failure to otherwise meet the time requirements of this section, shall not constitute an adverse finding with regard to the merits of the claim or the responsibility or qualifications of the claimant.

(4) Amounts not paid in a timely manner as required by this section shall bear interest at 7 percent per annum.

(5) If a subcontractor or a lower tier subcontractor lacks legal standing to assert a claim against a public entity because privity of contract does not exist, the contractor may present to the public entity a claim on behalf of a subcontractor or lower tier subcontractor. A subcontractor may request in writing, either on his or her own behalf or on behalf of a lower tier subcontractor, that the contractor present a claim for work which was performed by the subcontractor or by a lower tier subcontractor on behalf of the subcontractor. The subcontractor requesting that the claim be presented to the public entity shall furnish reasonable documentation to support the claim. Within 45 days of receipt of this written request, the contractor shall notify the subcontractor in writing as to whether the contractor presented the claim to the public entity and, if the original contractor did not present the claim, provide the subcontractor with a statement of the reasons for not having done so.

(e) The text of this section or a summary of it shall be set forth in the plans or specifications for any public works project that may give rise to a claim under this section.

(f) A waiver of the rights granted by this section is void and contrary to public policy, provided, however, that (1) upon receipt of a claim, the parties may mutually agree to waive, in writing, mediation and proceed directly to the commencement of a civil action or binding arbitration, as applicable; and (2) a public entity may prescribe reasonable change order, claim, and dispute resolution procedures and requirements in addition to the provisions of this section, so long as the contractual provisions do not conflict with or otherwise impair the timeframes and procedures set forth in this section.

(g) This section applies to contracts entered into on or after January 1, 2017.

(h) Nothing in this section shall impose liability upon a public entity that makes loans or grants available through a competitive application process, for the failure of an awardee to meet its contractual obligations.

(i) This section shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.

- B.** Any claim submitted pursuant to this Article shall be accompanied by all documents substantiating Contractor's position regarding the claim, shall include all categories of information required by the Notice of Dispute, and must be updated to be current as of the date of the claim. Failure to include all relevant supporting documentation with a claim shall constitute a waiver, release, discharge, and relinquishment of any right to assert, request, or demand any entitlement to an adjustment of Contract Time or Contract Sum on account of any documentation that was available to Contractor but not included as part of the claim or claim update.
- C.** If the unresolved claim persists longer than a single calendar month from the filing of the claim, then on the first day of each month, for each month until the claim, including any Work done related to the claim, ceases, Contractor shall submit to Owner a Claim Update that shall update and quantify all elements of the claim as completely as possible. Contractor's failure to submit a claim update, or quantify costs every month, shall result in waiver of the claim for that month-long period. Claim updates stating that damages, schedule impact, or any time extension will be determined at a later date will not comply with this section.
- D.** Each party shall bear its own costs, including attorneys' fees, incurred in relation to filing or otherwise seeking relief for a claim made pursuant to Public Contract Code section 9204.
- E.** The provisions of Public Contract Code section 20104 *et seq.* relating to the resolution of construction claims of \$375,000 or less between a contractor and a local agency are incorporated herein by this reference.

ARTICLE IX — PROTECTION OF PERSONS AND PROPERTY

9.01 SAFETY PROVISIONS

- A.** All Work, labor, services, and materials to be furnished by Contractor must strictly comply with all applicable federal, state, county, and local laws, rules, regulations, statutes, ordinances, and directives (collectively, "Laws") now in force or hereinafter in effect. Contractor shall comply with all Laws as part of its Work, and without any additional compensation.
- B.** Contractor agrees that the prevention of accidents to workman engaged in the Work under Contractor is solely its responsibility. Contractor shall comply with all applicable safety laws, and to any safety standards established during the progress of the Work by Contractor. This requirement shall apply continuously, and is not limited to normal or regular business hours. If requested by Owner, Contractor shall submit a safety plan for review by Owner. The review of any safety plan by Owner shall not be deemed to release Contractor, or in any way diminish its liability, assumed by it under this Contract.
- C.** When so ordered, Contractor shall stop any part of the work which Owner deems unsafe until corrective measures satisfactory to Owner have been taken. Should Contractor neglect to adopt such corrective measures, Owner may do so and deduct the cost from payments due to Contractor. Contractor shall timely and promptly submit copies of all accident or injury reports to Owner.
- D.** In the event Contractor encounters on the Project Site material reasonably believed to be asbestos, polychlorinated biphenyl ("PCB"), or any other hazardous substance or

Hazardous Materials, removal or containment of which is required by any applicable rule or law and which has not been rendered harmless, Contractor shall immediately stop Work in the affected area and report the condition to Owner in writing. The Work shall resume in the absence of such hazardous substance or Hazardous Materials, or when it has been rendered harmless, by written order from, and in accordance with final determination by, Owner.

9.02 PRESERVATION OF CULTURAL RESOURCES

- A.** Contractor shall comply with all federal (including, but not limited to, the National Historic Preservation Act of 1966), state, and local laws, rules, regulations, statutes, ordinances, and directives relating to historic preservation and fair compensation to Contractor for construction delays that may occur due to cultural resources discoveries and preservation of same.
- B.** In the event potentially historical, architectural, archaeological or cultural resources are discovered during subsurface excavations at the Project Site, Owner will issue a "Cultural Resources – Suspend Work Order" or Termination for Convenience, and direct Contractor to temporarily suspend all operations at the location of such potential resources. A "Cultural Resources – Suspend Work Order" will be effective until such time as a qualified consultant can assess the value of such resources and make recommendations.

ARTICLE X — INDEMNIFICATION AND INSURANCE

SEE EXHIBIT B – INSURANCE REQUIREMENT

ARTICLE XI — CORRECTION OF WORK

11.01 CORRECTION OF WORK

The Contractor must promptly correct Work rejected by Owner, or Work failing to conform to the requirements of the Contract Documents, whether or not fabricated, installed or completed. The Contractor bears the costs of correcting such rejected Work, including any required testing and inspections, and including compensation for Owner services and expenses made necessary thereby.

11.02 ACCEPTANCE OF NON-CONFORMING WORK

Owner, in its sole and absolute discretion, may accept any or all of Work that is not in accordance with requirements of the Contract Documents. Owner may choose to accept non-conforming Work instead of requiring its correction and/or removal, in which case the Contract Sum shall be reduced as appropriate. Such adjustment shall be effectuated whether or not final payment to Contractor has been made.

ARTICLE XII — FINAL COMPLETION AND ACCEPTANCE

12.01 FINAL INSPECTION

Contractor shall notify Owner when the Work is complete and ready for Owner's Final Inspection. After Final Inspection, the Owner's Authorized Representative will Accept the Work if the Contractor has satisfactorily:

- A.** Corrected all deficiencies observed during the Final Inspection and no new deficiencies have been observed;

- B.** Submitted satisfactory evidence to Owner that all payrolls, material bills, and other indebtedness connected with said Work have been paid; and,
- C.** Submitted all other required contract deliverables.

12.02 WARRANTY & GUARANTEES

- A.** Neither the final Acceptance, nor payment, nor any provision in the Contract Documents relieves Contractor of responsibility for faulty materials or workmanship.
- B.** Contractor must guarantee all workmanship and materials for a period of 1 year, or as specified in the Contract Documents, whichever length of time is greater, from and after the Date of Acceptance of the Work by the Board of Supervisors or designee(s).
- C.** The aforesaid 1-year warranty/guarantee period does not in any way limit or waive Owner's rights to legal recourse for latent construction defects, pursuant to Code of Civil Procedure section 337.15, nor for patent construction defects pursuant to Code of Civil Procedure section 337.1.
- D.** In the event of Contractor's failure to comply with the requirements of any warranty/guarantee required by the Contract Documents, within 3 calendar days after being notified in writing, Owner may proceed with repairs at the expense of Contractor, who shall pay all costs and charges to Owner immediately upon demand.

INSURANCE REQUIREMENTS

ARTICLE I — INDEMNITY

To the fullest extent allowed by law, the Contractor shall indemnify, defend, and hold harmless the County of Santa Clara (hereinafter "County"), its officers, agents and employees from any claim, liability, loss, injury or damage arising out of, or in connection with, performance of this Agreement by Contractor and/or its agents, employees or sub-contractors, excepting only loss, injury or damage caused by the sole negligence or willful misconduct of personnel employed by the County. It is the intent of the parties to this Agreement to provide the broadest possible coverage for the County. The Contractor shall reimburse the County for all costs, attorneys' fees, expenses and liabilities incurred with respect to any litigation in which the Contractor contests its obligation to indemnify, defend and/or hold harmless the County under this Agreement and does not prevail in that contest.

ARTICLE II — INSURANCE

Without limiting Contractor's indemnification of the County, Contractor shall provide and maintain, at its own expense, during the term of this Agreement, or as may be further required herein, the following insurance coverages and provisions:

A. Evidence of Coverage

Prior to commencement of this Agreement, the Contractor shall provide a Certificate of Insurance certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier must accompany the certificate. In addition, a certified copy of the policy or policies shall be provided by Contractor upon request.

This verification of coverage shall be sent to the requesting County department, unless otherwise directed. Contractor shall not receive a Notice to Proceed with the Work under the Agreement until it has obtained all insurance required, and such insurance has been approved by the County. This approval of insurance shall neither relieve nor decrease the liability of the Contractor.

B. Qualifying Insurers

1. All coverages, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A-V, according to the current Best's Key Rating Guide, or a company of equal financial stability that is approved by the County's Insurance Manager.
2. When surety bonds are required, they shall be issued by companies that meet the following minimum requirements:
 - a. For projects in excess of \$250,000:
 - i. A California admitted surety with either a current A.M. Best rating of A-IV or a current Standard & Poors ("S&P") rating of A, or;
 - ii. An admitted surety insurer which complies with the provisions of Code of Civil Procedure section 995.660,* or;
 - iii. lieu of (i) & (ii), a company of equal financial size and stability that is approved by the County's Insurance Manager.

- b.** For projects under \$250,000:
 - i.** A California admitted surety with either a current A.M. Best rating of B or a current Standard & Poors (“S&P”) rating of BB, or;
 - ii.** An admitted surety insurer which complies with the provisions of Code of Civil Procedure section 995.660,* or;
 - iii.** In lieu of 1 & 2, a company of equal financial size and stability that is approved by the County's Insurance Manager.

- c.** *Code of Civil Procedure section 995.660, in summary, states that an admitted surety must provide: 1) the original, or a certified copy of, an instrument authorizing the person who executed the bond to do so, within 10 calendar days of receipt of a request to submit the instrument; 2) a certified copy of the Certificate of Authority issued by the Insurance Commissioner, within 10 calendar days of receipt of a request to submit the copy; 3) a certificate from County Clerk of Santa Clara County that the Certificate of Authority has not been surrendered, revoked, canceled, annulled, or suspended, within 10 calendar days of receipt of the certificate; 4) copies of the surety's most recent annual statement and quarterly statement filed with the Department of Insurance, within 10 calendar days of receipt of a request to submit the statements.

C. Notice of Cancellation

All coverage as required herein shall not be canceled or changed so as to no longer meet the specified County insurance requirements without 30 Days' prior written notice of such cancellation or change being delivered to the County of Santa Clara, or its designated agent.

D. Insurance Required

- 1.** Commercial General Liability Insurance - for bodily injury (including death) and property damage which provides limits as follows:
 - a.** Each occurrence \$1,000,000
 - b.** General aggregate \$2,000,000
 - c.** Products/Completed Operations aggregate** \$2,000,000
 - d.** Personal Injury \$1,000,000

A minimum of 50% of each of the aggregate limits must remain available at all times unless coverage is project specific.

- 2.** General liability coverage shall include:
 - a.** Premises and Operations
 - b.** **Products/Completed Operations with limits of two million dollars (\$2,000,000) per aggregate to be maintained for three (3) years following

acceptance of the work by the County. For contracts whose maximum value is less than \$80,000, Products/Completed Operations limits shall be one million dollars (\$1,000,000) and two (2) years.

- c. Contractual liability expressly including liability assumed under this Agreement. If the Contractor is working within 50 feet of a railroad or light rail operation, any exclusion as to performance of operations within the vicinity of any railroad bridge, trestle, track, roadbed, tunnel, underpass or crossway shall be deleted, or a railroad protective policy provided.
 - d. Personal Injury liability
 - e. Owners' and Contractors' Protective liability
 - f. Severability of interest
 - g. Explosion, Collapse, and Underground Hazards (X, C, and U)
 - h. Broad Form Property Damage liability
- 3.** General liability coverage shall include the following endorsements, copies of which shall be provided to the County:
- a. Additional Insured Endorsement, which shall read:

"County of Santa Clara, and members of the Board of Supervisors of the County of Santa Clara, and the officers, agents, and employees of the County of Santa Clara, individually and collectively, as additional insureds."

Insurance afforded by the additional insured endorsement shall apply as primary insurance, and other insurance maintained by the County of Santa Clara, its officers, agents, and employees shall be excess only and not contributing with insurance provided under this policy. Public entities may also be added to the additional insured endorsement as applicable, and Contractor shall be notified by the contracting department of these requirements.
 - b. Contractual Liability Endorsement:

"Insurance afforded by this policy shall apply to liability assumed by the insured under written contract with the County of Santa Clara."
 - c. X C & U (Explosion, Collapse and Underground) Endorsement:

"Insurance afforded by this policy shall provide X, C, and U Hazards coverage."
- 4.** Claims Made Coverage
- If coverage is written on a claims made basis, the Certificate of Insurance shall clearly state so. In addition to coverage requirements above, such policy shall provide that:

- a. Policy retroactive date coincides with or precedes the Contractor's start of work (including subsequent policies purchased as renewals or replacements).
- b. Contractor will make every effort to maintain similar insurance during the required extended period of coverage following project completion, including the requirement of adding all additional insureds.
- c. If insurance is terminated for any reason, Contractor agrees to purchase an extended reporting provision of at least 2 years to report claims arising from work performed in connection with this Agreement or Permit.
- d. Policy allows for reporting of circumstances or incidents that might give rise to future claims.

5. Automobile Liability Insurance

For bodily injury (including death) and property damage which provides total limits of not less than one million dollars (\$1,000,000) combined single limit per occurrence applicable to all owned, non-owned and hired vehicles.

6. Workers' Compensation and Employer's Liability Insurance

- a. Statutory California Workers' Compensation coverage including broad form all-states coverage.
- b. Employer's Liability coverage for not less than one million dollars (\$1,000,000) per occurrence.

7. Contractor's Pollution Liability

Contractor shall provide Contractor's Pollution Liability coverage including bodily injury, personal injury, and property damage from a pollution event resulting from the Work, operations or completed operations of the Project with limits not less than \$1,000,000 per claim or per occurrence and \$1,000,000 aggregate limits, including claim expenses and defense, written on a claims made or occurrence basis for the Project inclusive of the term of construction and a ten

(10) year completed operations period, including coverage for mold. If the Work involves the removal of asbestos, the removal/ replacement of underground tanks and/or the removal of toxic chemicals and substances, Contractor or Subcontractor performing such Work shall provide the appropriate pollution coverage, with limits of no less than \$1,000,000 per claim or per occurrence.

8. Contractors' Equipment Insurance

On an "all risk" basis covering equipment owned, leased, or used by the Contractor. If the total value of equipment is less than \$100,000, Contractor may self-insure this exposure. If total equipment value is \$100,000 or more, insurance is required. Such insurance shall include an insurer's waiver of subrogation in favor of the County. Contractor shall hold harmless the County for any loss or damage to the Contractor's equipment. This coverage may be waived by the

Insurance Manager, but the Contractor hereby releases and holds harmless the County for any loss or damages to its equipment.

9. Builder's Risk Insurance

The County shall provide Builder's Risk insurance (first party property insurance) on an all risk basis including flood with a limit of no less than the full replacement value of the work, and covering the work and all materials incorporated therein, and insuring the interests of the County, Contractor, and subcontractors. Insurance shall contain insurer's waiver of subrogation in favor of the Contractor and subcontractors. The Contractor shall be responsible for the first \$50,000 of any loss. The County's provision of Builder's risk insurance is an economic convenience to the County, and does not change or revise the Contractor's responsibility for the Work until County Acceptance, including but not limited to, losses that may exceed the insurance limits. Contractor may secure additional insurance, in Contractor's sole and absolute discretion, and Contractor must include the cost of such insurance in Contractor's bid.

E. Special Provisions. The following provisions shall apply to this Agreement:

1. The foregoing requirements as to the types and limits of insurance coverage to be maintained by the Contractor and any approval of said insurance by the County or its insurance consultant(s) are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Contractor pursuant to this Agreement, including but not limited to the provisions concerning indemnification.
2. The County acknowledges that some insurance requirements contained in this Agreement may be fulfilled by self-insurance on the part of the Contractor. However, this shall not in any way limit liabilities assumed by the Contractor under this Agreement. Any self-insurance shall be approved in writing by the County upon satisfactory evidence of financial capacity. Contractor's obligation hereunder may be satisfied in whole or in part by adequately funded self-insurance programs or self-insurance retentions.
3. Should any of the work under this Agreement be sublet, the Contractor shall require each of its subcontractors of any tier to carry the aforementioned coverages, or Contractor may insure subcontractors under its own policies.
4. The County reserves the right to withhold payments to the Contractor in the event of material non-compliance with the insurance requirements outlined above.

F. Bond Requirements

1. **Contract Bonds.** Prior to execution of the Contract, Contractor shall file with the County on the approved forms, the 2 surety bonds in the amounts and for the purposes noted below, duly executed by a reputable surety company satisfactory to County, and Contractor shall pay all premiums and costs thereof and incidental thereto. Each bond shall be signed by both Contractor and the sureties.
 - a. The "payment bond for public works" shall be in an amount of 100% of the Contract price, as determined from the prices in the bid form, and shall inure to the benefit of persons performing labor or furnishing materials in connection with the Work of the proposed Contract. This bond shall be

maintained in full force and effect until all Work under the Contract is completed and Accepted by the County, and until all claims for materials and labor have been paid.

- b.** The "performance bond" shall be in an amount of 100% of the Contract price as determined from the prices in the bid form, and shall insure the faithful performance by Contractor of all Work under the Contract. The performance bond shall also insure the replacing of, or making acceptable, any defective materials or faulty workmanship.
- 2.** Should any surety or sureties be deemed unsatisfactory at any time by the County, notice will be given to Contractor to that effect, and Contractor shall promptly substitute a new surety or sureties satisfactory to the County. No further payment shall be due Contractor or will be made under the Contract until the new sureties qualify and are accepted by the County.
- 3.** All alterations, time extensions, extra and additional work, and other changes authorized by the Specifications, or any part of the Contract, may be made without securing consent of the surety or sureties on the contract bonds.
- 4.** Fidelity Bonds – Required only if contractor will be receiving advanced funds or payments. Before receiving compensation under this Agreement, Contractor shall furnish County with evidence that all officials, employees, and agents handling or having access to funds received or disbursed under this Agreement, or authorized to sign or countersign checks, are covered by a blanket fidelity bond in an amount of at least 15% of the maximum financial obligation of the County cited herein. If such bond is canceled or reduced, Contractor shall notify County immediately, and County may withhold further payment to Contractor until proper coverage has been obtained. Failure to give such notice may be cause for termination of this Agreement, at the option of County.

WORKERS' COMPENSATION

Labor Code section 3700 states in part:

Every employer except the state shall secure the payment of compensation in one or more of the following ways:

- A. By being insured against liability to pay compensation by one or more insurers duly authorized to write compensation insurance in this state.
- B. By securing from the Director of Industrial Relations a certificate of consent to self-insure either as an individual employer, or as one employer in a group of employers, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his or her employees.

I am aware of the provisions of Labor Code section 3700 which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the Work of this Contract.

NOTE: Labor Code section 1861 requires that this Contractor certification must be signed and filed by the Contractor with the public agency prior to performing any Work.

SIGNATURE BLOCK (Signature Block must be completed in ink & changes must be initialed.)	
Bidder's Signature: _____	Date: _____
Bidder's Name & Title (Print): _____	

BIDDER'S CERTIFICATIONS

- 1. THE NAMES OF ALL PERSONS INTERESTED IN THE FOREGOING BID AS PRINCIPALS ARE AS FOLLOWS:

NOTE: If Bidder or other interested person is a corporation or limited liability company, give legal name of corporation, the state where incorporated or organized, and names of the president and secretary thereof; if a partnership, provide name of the firm, also names of all individual partners composing firm; if Bidder or other interested person is an individual, provide first and last names in full below:

- 2. LICENSED IN ACCORDANCE WITH CHAPTER 9, DIVISION 3, OF BUSINESS AND PROFESSIONS CODE PROVIDING FOR THE REGISTRATION OF CONTRACTORS:

Contractor's License: No.: _____ Class: _____ Expiration Date: _____

- 3. PUBLIC WORKS CONTRACTOR ("PWC") REGISTRATIONS PURSUANT TO DIVISION 2, PART 7, CHAPTER 1 (COMMENCING WITH SECTION 1720) OF THE CALIFORNIA LABOR CODE.

Public Works Contractor's Registration No.: _____ Expiration Date: _____

NOTE: Bidders bidding jointly, or as a combination of several business organizations, are cautioned that such bidders must be jointly licensed in the same form and style in which the bid is executed. If making a bid as a joint venture, each person submitting the bid must provide the information required above with respect to his or her license.

- 4. NON-COLLUSION AFFIDAVIT

In accordance with Public Contract Code section 7106 _____
(Bidder's Full Name)

being first duly sworn, declares: I am _____
(Bidder's Title)

of _____
(Company Name)

the party making the foregoing bid. The bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The bid is genuine and not collusive or sham. The bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid. The bidder has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or to refrain from bidding. The bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder. All statements contained in the bid are true. The bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof, to effectuate a collusive or sham bid, and has not paid, and will not pay, any person or entity for such purpose. Any person executing this declaration on behalf of a bidder that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the bidder.

5. STATEMENT OF BIDDER

Has the bidder, any officer of the bidder, or any employee of the bidder who may have a proprietary interest in the bid, ever been disqualified, removed, or otherwise prevented from bidding on or completing any federal, state, or local governmental project because of a violation of law or safety regulations:

YES _____ NO _____

If your answer is yes, explain the circumstances:

6. CONTRACTING PRINCIPLES DECLARATION OF CONTRACTOR/BIDDER

If successful, the bidder will, during the Contract Time:

- A. Comply with all applicable federal, state, and local rules, regulations and laws;
- B. Maintain financial records adequate to show that the County funds paid pursuant to the Contract were used for purposes consistent with the terms of the Contract.

I declare under penalty of perjury under the laws of the State of California that the information supplied above is true and correct:

SIGNATURE BLOCK (Signature Block must be completed in ink & changes must be initialed.)	
Bidder's Signature: _____	Date: _____
Bidder's Name & Title (Print): _____	
Executed at:	
City: _____, State: _____	

PREVAILING WAGE STATEMENT

If awarded the contract, we and our subcontractors shall pay all the workers we assign to the project not less than prevailing wages under Labor Code section 1770 *et seq.* We are aware that the Director of Industrial Relations has ascertained the general prevailing rate of per diem wages, and the rates for overtime and holiday work in the locality in which the work is to be performed for each craft, classification or type of worker needed to perform the Work under the contract which will be awarded to the successful bidder. In addition, we are informed of the following:

Copies of the prevailing wage rates are on file at:

Clerk of the Board of Supervisors
County of Santa Clara Administration Building
70 West Hedding Street, East Wing, 10th Floor
San Jose, CA 95110
(408) 299-5001

and

State of California Department of Industrial Relations
Office of the Director – Research Unit
P.O. Box 420603
San Francisco, CA 94142
(415) 703-4774
<https://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>

No contractor or subcontractor may be awarded a contract for public work on a public works project unless registered with the Department of Industrial Relations (“DIR”) pursuant to Labor Code section 1725.5. All subcontractors listed in the bid proposal must be registered with the DIR. No contractor or subcontractor may perform work on the project without being registered with the DIR. The successful bidder shall be required to post the prevailing wage determinations at each job site.

Each contractor and subcontractor shall keep accurate payroll records showing the name, address, social security number, work classification, straight time, and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker or other employee employed by him or her in connection the public work.

Certified copies of such payroll records must be furnished to the state or the County upon request.

By signing below, the bidder certifies that he shall comply with the prevailing wage laws.

SIGNATURE BLOCK (Signature Block must be completed in ink & changes must be initialed.)	
Bidder's Signature: _____	Date: _____
Bidder's Name & Title (Print): _____	

DESIGNATION OF SUBCONTRACTORS

This Designation of Subcontractors form shall be completed in compliance with the State of California Subletting and Subcontracting Fair Practices Act, Public Contract Code Sections 4100 et seq., and any amendment thereof, except that bidders shall list all subcontractors to perform work under the Contract, regardless of the amount of work to be performed. Bidders may not list multiple subcontractors for the same Scope of Work. Any subcontractor substitution must be in accordance with the Subletting and Subcontracting Fair Practices Act. A subcontractor is one who: (1) performs work or labor; or (2) provides a service to the bidder; or (3) specially fabricates and installs a portion of the Work according to the Plans and Specifications.

- - - SUBCONTRACTORS - - -				
BUSINESS NAME	PUBLIC WORKS CONTRACTOR REGISTRATION No.	LICENSE No.	ADDRESS OF BUSINESS	SCOPE OF WORK

SIGNATURE BLOCK (<i>Signature Block must be completed in ink & changes must be initialed.</i>)	
Bidder's Signature: _____	Date: _____
Bidder's Name & Title (Print): _____	

CUSTOMER REFERENCES

List and submit with the bid at least 3 customer references, 1 of which should be in the San Francisco Bay Area and 1 of which should be for work completed in a hospital setting, for whom you have performed a job similar in size and scope.

1. COMPANY NAME: _____
ADDRESS: _____

CONTACT PERSON: _____
TELEPHONE NUMBER: _____

2. COMPANY NAME: _____
ADDRESS: _____

CONTACT PERSON: _____
TELEPHONE NUMBER: _____

3. COMPANY NAME: _____
ADDRESS: _____

CONTACT PERSON: _____
TELEPHONE NUMBER: _____

4. COMPANY NAME: _____
ADDRESS: _____

CONTACT PERSON: _____
TELEPHONE NUMBER: _____

5. COMPANY NAME: _____
ADDRESS: _____

CONTACT PERSON: _____
TELEPHONE NUMBER: _____

SCOPE OF WORK/SPECIFICATIONS

ARTICLE I — GENERAL

It is the intent of the County of Santa Clara – Facilities and Fleet Department to establish a term contract with a contractor to provide FLOORING REPAIR SERVICES for O’Connor Hospital and O’Connor Medical Office Building, on an “as needed” basis. The term contract shall be for a period of 1 year.

Successful contractor shall be responsible for all necessary equipment, tools, consumables, material, labor, non-specialty equipment, and supplies required to perform the work as described herein.

Contractor shall be required to provide the necessary trained personnel and supervision to perform FLOORING REPAIR SERVICES on an “as needed” basis at O’Connor Hospital and O’Connor Medical Office Building as describe herein.

ARTICLE II — MINIMUM QUALIFICATIONS

- A.** Contractor must have minor public work experience in a Hospital setting.
- B.** Contractor must be licensed by the State of California. The license should be applicable to the requirements and regulations under Contractors State License Board and/or Business & Professions Code as it applies to the scope of work and/or specifications.
- C.** Contractor and its approved sub-contractor(s) must possess the appropriate specialty contractor license from the Contractors State License Board, and must maintain all state, county, and local licenses and/or certificates to prove their qualifications to perform all services specified.
- D.** Contractor must have experience in the commercial business. Technicians selected to perform work must be highly trained, journeyman level with commercial experience. Apprentices must be certified. Material handlers/laborers must be permanent employees of the Contractor; no "Pick up labor" or "Day labor" may be used on any job under the Contract.
- E.** Contractor may be required to furnish evidence satisfactory to County that Contractor and its proposed Subcontractors have sufficient means and experience in the type of Work required to assure satisfactory completion of all the requirements specified herein.
- F.** Contractor must have sufficient staffing/vehicles to provide service at various locations throughout the County of Santa Clara.
- G.** Contractor must have the staffing capacity and resources to be available on call 24 hours a day, 7 days per week. Contractor must respond and commence work within the response time required for each service call. See Exhibit H, Article VII (Service Call and Response Time) for details.

ARTICLE III — SCOPE OF SERVICE

The Term contract shall only be used for repair work and replacement of currently existing structures with County approved equivalents. Contractor shall be required to perform flooring repair services at O’Connor Hospital and O’Connor Medical Office Building. All works shall be in conformity with the

specifications and all applicable regulations and standards. Contractor shall be responsible for the method, type of material, and equipment used successfully under the conditions encountered in the performance of the work described herein.

- A. Works shall include but are not limited to:
- a. Inspect and Repair of subfloor as needed
 - b. Prepare surfaces for new installation
 - c. Sand smooth all rough edges
 - d. Install binder bars with recessed fasteners
 - e. Moving of furniture where applicable
 - f. Clean dirt, debris, and spots from carpet
 - g. Install binder bars with recessed fasteners to protect carpet edge
 - h. Replace padding due to water damage
 - i. Repair and/or replace base-board and transition strips
 - j. Repair and/or replace underlayment of existing flooring
 - k. Restore wood floor, includes cleaning, polishing, and buffing
 - l. Re-stretching of existing carpet
 - m. Installation of material used as a base for the finished surface (lining, pad, underlayment, and/or leveling compounds)
 - n. Install epoxy flooring system
 - o. Removal and disposal of old flooring materials
 - p. Waste management and disposal, recycling center, landfill/dump, (cost will include all applicable regulator fees and taxes)
 - q. Cove and cap sheet goods
- B. TYPE OF FLOORING
- a. Carpet (includes Carpet tiles)
 - b. Resilient (full sheet and tiles)
 - c. Linoleum
 - d. Hardwood
 - e. Laminates
 - f. Engineered wood
 - g. Rubber
 - h. Wood
 - i. Natural Stone
 - j. Ceramic Tile
 - k. Epoxy floor coating
 - l. Sub flooring
 - m. Luxury Vinyl Plank
 - n. Vinyl
 - o. Vinyl Composite Tile
 - p. PVC
- C. Carpet seams must line up to match weaving lines as woven and shall have salvage edge trimmed and hand sewn. All finishes shall be free of scraps, ripples, scallops and puckers.
- D. Contractor shall be responsible for damages to walls or base caused by carpet installer(s) and such damages shall be repaired or corrected at no cost to the County.
- E. Contractor shall be responsible and ensure that all materials used are in compliance with all applicable, Federal, State, and local laws and regulations.
- F. Where applicable, vinyl flooring must be installed in full sheets.

- G. Contractor shall be responsible for the accuracy of all dimensions, quantities, field measurements, criteria, materials, and similar data, and satisfy that adequate information have been provided to fulfill the purpose intended. Contractor shall check and coordinate all data with the requirements of the Work and the Contract Documents.
- H. PERMITS
Contractor shall be responsible for obtaining all appropriate permit(s) and all applicable fees. Such fees shall be reimbursed by the County at cost with no markup.
- I. During the course of work, Contractor will ensure, in accordance with applicable Standard Specifications, the following:
- a. Review placement, protection, method, and staging with the County's Project Manager or designee;
 - b. Perform specified quality control;
 - c. Make appropriate arrangement for inspections.
- J. Contractor shall make repairs in accordance with the manufacturer's recommendations and standards for the specific flooring under repair.
- K. PRODUCTS
Contractor shall be responsible for the replacement of failed/defective equipment, fixtures, and parts installed by contractor that are under warranty. Such cost, if any, shall be incurred by contractor. Contractor shall assume all liability for such defects.
- Contractor shall make written requests to the County to obtain approval of the use of any material that was not originally specified or approved by the County prior to the commencement of work. Subcontractors and suppliers shall make all requests for approval through the Contractor.
- Before ordering any material, Contractor shall verify all measurements involved. Any differences between actual dimensions and the measurements indicated on the drawings shall be reported to the County for consideration before proceeding with the work. No extra charge or compensation will be allowed on account of difference without written approval from the County.
- L. All work performed shall meet the latest revision of all applicable State and local regulations, laws, and codes.
- M. The County reserves the right to supply all or part of the materials, equipment, supplies, or fixtures on any project/repair.
- N. Follow up work required to correct recent repair/improper repair, or substandard parts shall be at no charge to the County.
- O. All work schedules must be approved in writing by the County's Project Manager(s) prior to commencement of work.
- P. Contract shall made available a trained staff member(s) to provide technical advice, research and resolve equipment issues where applicable.
- Q. Unless otherwise specified, Contractor shall guarantee the labor and materials used are within the specified guidelines and recommendations of the manufacturer.

- R. Materials and fixtures furnished shall be new and shall be of commercial quality material. Used, reconditioned, or discontinued models and materials are not acceptable. The warranty period for contractor provided materials shall be for a period of 1 year, or within the manufacture warranty, whichever is longer. Such warranty shall commence upon the date of acceptance of Contractor's work by the County.
- S. Contractor shall be responsible for the replacement of failed/defective equipment, and parts installed by Contractor that are under warranty. Such cost, if any, shall be incurred by Contractor. Contractor shall assume all liability for such defects.

ARTICLE IV — GENERAL REQUIREMENTS

- A. Contractor is responsible for compliance with all building code requirements. Independent of, or in addition, to any other legal requirements, the County may inspect and test Contractor's work to determine if it conforms to the California Building Standards Code and local regulations, if applicable. The County will not accept Contractor's work unless it meets all applicable building code requirements.
- B. Contractor will have a designated representative to oversee Contractor's technicians assigned to perform the work specified herein. Contractor representative shall be responsible for providing all required documents, including, but not limited to, reports, invoices etc., to the designated County Contract Administrator or designee.
- C. Contractor shall assign a primary/secondary technician(s) as the main contact for the County during the term of the contract. The County representative shall contact the technician(s) for all service/scheduling needs.
- D. Regular business hours are Monday through Friday, 7 a.m. through 5 p.m. **All repairs shall be completed during regular business hours although some repair work may need to be completed outside regular business hours to avoid patient care disruptions.** Overtime work is work that exceeds 8 hours in one day or 40 hours in week. Saturday, Sunday, and County-observed holidays and shall be charged at the rate proposed by Contractor in the bid.
- E. Work completed outside regular business hours is entitled to shift differential pay. Contractor shall refer to the Department of Industrial Relation's Shift Provisions for guidance on the work hours that are applicable to each shift.
- F. Contractor must obtain written authorization prior to commencement of work. The County will provide Contractor written approval by issuing a Notice to Proceed.
- G. Contractor shall provide a project estimate upon County's request per work order request. Refusal or failure to provide a project estimate shall constitute a material breach of this Agreement. In the event of such a breach, the County may, in its discretion, exercise any or all remedies available under this Agreement and at law.
- H. Contractor shall complete all contracted work assignments as indicated in the contracted Scope of Work and in accordance with the hourly rates submitted by Contractor on its bid form. Refusal or failure to comply with a Notice to Proceed shall constitute a material breach of this Agreement. In the event of such a breach, the County may, in its discretion, exercise any or all remedies available under this Agreement and at law.

ARTICLE V — REGULATIONS AND STANDARDS

All material and work shall be in accordance with the rules and requirements of the United States Department of Labor Occupational Safety and Health Administration (“OSHA”); National Electrical Code (“NEC”); National Fire Codes published by the National Fire Protection Association (“NFPA”); California Administrative Codes (“CAC”); Uniform Building Code (“UBC”); Uniform Plumbing Code (“UPC”); and other applicable federal, state, and local laws and/or regulations. These specifications shall not be construed to permit work not conforming to these requirements. The regulations shall govern where they require higher standards or conflict with the specifications. Published rulings and interpretations of the enforcing agencies shall be considered a part of these specifications. All regulations and standards shall be the latest publication unless governing authorities require otherwise. In addition, all of Contractor’s work shall be in accordance with the best practices available in the industry, and shall present a neat, workmanlike appearance upon completion.

ARTICLE VI — PREVAILING WAGE RATE

Contractor shall pay those technicians that are assigned to service the County under the contract a rate not less than the Determined Prevailing Wage Rate for work of a similar character in the locality in which the work is performed, and not less than the general prevailing rate of per diem wages for legal holiday and overtime work in said locality, which per diem wages shall not be less than stipulated rates contained in a schedule thereof which has been ascertained and determined by the Director of the State Department of Industrial Relations and the Board to be the general prevailing rate of per diem wages for each craft or type of workman or mechanic needed to execute this contract, and which is now on file in the Office of the Clerk of the Board of Supervisors, where it is available to any interested party upon request, and it is by reference incorporated herein and made a part hereof. Contractor shall forfeit as a penalty to the County twenty-five dollars (\$25.00) for each laborer, workman or mechanic employed for each calendar day, or portion thereof, if such laborer, workman or mechanic is paid less than the said stipulated rates for any work done under this contract by the Contractor or any sub-contractor, in violation of Articles 1 and 2 of Chapter 1 of Part 7 of Division II of the Labor Code of the State of California.

Contractor shall maintain Certified Payroll Records of all employees. Such records shall include employee’s name, address, social security number, work classification, straight time and overtime hours worked, actual wage aid, and statement of employer payments.

ARTICLE VII — SERVICE CALL AND RESPONSE TIME

- A.** Contractor shall be available on-call 24/7, including to respond to emergency calls and repairs as described in section B. If the Contractor repeatedly fails to respond to service calls within the required response time, such failure will be documented in the County’s compliance reports concerning the Contractor and may be considered in a future assessment of Contractor’s responsibility and, if negative compliance reports result in termination, future prequalification processes.
- B.** Contractor shall respond and commence work within forty-eight (48) hours for all other services. Contractor shall respond and commence work within 48 hours for minor break-fix repairs. A County representative will inform Contractor of the priority level of each service call as deemed appropriate. All work to be completed as agreed upon by both parties.

ARTICLE VIII — PROJECT ESTIMATES

- A. Contractor must assess each project within the time frames established by Exhibit H, Section VII (Service Call and Response Time) after receiving a request by County staff. The County will not pay for Contractor's time or overhead related to preparing estimates or visiting or assessing project sites in order to prepare estimates. The County will provide no more than one walk-through for Contractor to provide an estimate unless the County deems it necessary in its sole discretion to provide additional walk-throughs. Contractor shall attend walk-throughs sufficiently prepared to gather the information necessary to provide an estimate.
- B. After assessing a project, Contractor must submit a detailed estimate prior to commencing work. Estimates shall be provided on the form prescribed by the County and include the following information to be accepted by County staff:
 - a. Scope of Work
 - b. Item Description
 - c. Unit Price
 - d. Unit of Measure
 - e. Time Frame
 - f. Work Schedule
 - g. Equipment
 - h. Material and Fixtures
- C. After County staff agree to a proposed amount time frame, changes to the project scope of work that would increase the agreed upon amount and/or alter the completion date must be reviewed and approved by County staff.
- D. **Repairs estimated to exceed twenty-five thousand dollars (\$25,000) shall require written approval by the Director of Facilities & Fleet Department, or designee.** This is a non-exclusive contract. The County reserves the right to obtain competitive quotes. Contractor shall be solely and fully responsible for commencing with any work with an estimated cost in excess of twenty-five thousand dollars (\$25,000) without first securing written approval.

ARTICLE IX — COMMENCEMENT OF WORK

- A. Contractor must obtain written authorization prior to commencement of work. The County will provide contractor written approval by way of a work order request and/or Notice to Proceed.
- B. Contractor shall not receive a Notice to Proceed with the Work under the Agreement until it has obtained an Infection Control Risk Assessment Permit, and such permit has been approved by the County's Infection Control Preventionist. A sample of the required permit is attached as Exhibit I. Prior to commencing work, Contractor shall meet with the Project Manager and Infection Control Preventionist to discuss the means and methods of performing the work, to secure an Infection Control Risk Assessment and Permit.
- C. Unauthorized work performed shall be at the Contractor's own risk. County shall not be responsible for such work in any capacity, including, but not limited to, payment, liability, or risk.

- D. Time shall begin once the technician(s) arrives at the work site. Contractor shall not charge time for travel to and from the work site. Contractor agrees there shall be no minimum charge on labor or equipment.

ARTICLE X — ACCEPTANCE OF WORK

County's Project Manager or designee will review and inspect all work completed by Contractor. All of Contractor's work must be determined as acceptable in writing by County prior to payment being due to Contractor.

ARTICLE XI — INVOICE AND PAYMENT

- A. Contractor shall provide the Project Manager with invoices in accordance with Article VII (Payments), Section 7.3 (Invoices) of the General Conditions.
- B. Owner will release payment upon completion of the following:
 - a. Contractor submission of County prescribed Invoice Form and final acceptance of all work by the County's Project Manager or designee.

ARTICLE XII — SITE CONDITION

At all times, Contractor is solely and completely responsible for the conditions of the work site, including safety of its workers, and all persons and property during performance of work.

Contractor shall post and maintain all signs, barricades, and other safeguards required by law, ordinance, or good judgment. Contractor shall bear full responsibility for the protection and safety of public, personnel, materials, and surfaces in the vicinity of the work being performed.

During the progress of the work, Contractor shall keep the work area in a neat condition, and shall dispose of refuse as often as directed, or as may be necessary so that at no time shall there be any unsightly accumulation of debris or rubbish. Final clean-up shall include removal of all debris and rubbish from the work site.

Contractor shall protect all portions of facility from damage during the course of work. Any damage arising from performance of this Contract to floors, ceiling, walls, furniture, or any other improvement or fixture of property shall be repaired at once, and restored to its original condition, by Contractor at Contractor's own expense.

Contractor shall perform work in such a manner as to eliminate unnecessary noise, obstructions, and other annoyances to occupants. Contractor shall not encumber premises with materials, equipment, and/or vehicles. Contractor shall store materials and equipment and park vehicles in designated areas.

ARTICLE XIII — EQUIPMENT/SYSTEM RECALL

Contractor shall notify County when a recall is issued for any equipment or component serviced, installed, or repaired by Contractor. Notification by Contractor shall include the reasons for the recall, procedures for replacement, and the disposition of the recalled equipment.

ARTICLE XIV — SERVICE TAG/LOG

A service tag/log must be completed by Contractor after completion of work. Such tag or log must contain the following information:

- A. Date of Service
- B. Name of Technician(s)
- C. Description of Service(s)

ARTICLE XV — REPORT

For projects that include equipment installation, replacement, or repair work, Contractor shall provide upon request a Final Close-Out Report at the end of each work order to the County Project Manager and Contract Administrator or designee. Report(s) shall be provided both electronically and in hardcopy format and accompany each final project invoice.

Report(s) shall include, without limitation, the following detailed information regarding the equipment and fixtures: location, manufacturer, make/model number, serial number, system detail, service date(s), warranty details, preventative maintenance schedule, type of service, total units, and price paid for equipment, fixtures and installation. Report shall include itemized lists of replaced and/or reconditioned parts.

The County reserves the rights to request additional reports as needed.

ARTICLE XVI — CHANGES TO DESIGNEES

If different representatives are designated by either party during the term of the Contract, notice of any changes (including, but not limited to, name, address, e-mail, and telephone number) shall be promptly served in writing to the other party. Changes to designees shall be handled between the County's Contract Administrator and the Contractor's Contract Manager.

APPENDIX 1 – INFECTION CONTROL RISK ASSESSMENT AND PERMIT FORM

					Permit No: _____	
Location of Construction:				Project Start Date:		
Project Coordinator				Estimated Duration:		
Contractor Performing Work				Permit Expiration Date:		
Supervisor:				Telephone:		
YES	NO	CONSTRUCTION ACTIVITY	YES	NO	INFECTION PREVENTION AND CONTROL RISK GROUP	
		TYPE A: Inspection, non-invasive activity			GROUP 1: Least Risk	
		TYPE B: Small scale, short duration, moderate to high levels			GROUP 2: Medium Risk	
		TYPE C: Activity generates moderate to high levels of dust, requires greater 1 work shift for completion			GROUP 3: Medium/High Risk	
		TYPE D: Major duration and construction activities Requiring consecutive work shifts			GROUP 4: Highest Risk	
CLASS I		1. Execute work by methods to minimize raising dust from construction operations. 2. Immediately replace any ceiling tile displaced for visual inspection.	3. Minor Demolition for Remodeling			
CLASS II		1. Provides active means to prevent air-borne dust from dispersing into atmosphere 2. Water mist work surfaces to control dust while cutting. 3. Seal unused doors with duct tape. 4. Block off and seal air vents. 5. Wipe surfaces with disinfectant.	6. Contain construction waste before transport in tightly covered containers. 7. Wet mop and/or vacuum with HEPA filtered vacuum before leaving work area. 8. Place dust mat at entrance and exit of work area. 9. Remove or isolate HVAC system in areas where work is being performed.			
CLASS III		1. Obtain Infection Prevention and Control permit before construction begins. 2. Isolate HVAC system in area where work is being done to prevent contamination of the duct system. 3. Complete all critical barriers or implement control cube method before construction begins.	6. Vacuum work with HEPA filtered vacuums. 7. Wet mop with disinfectant 8. Remove barrier materials carefully to minimize spreading of dirt and debris associated with construction. 9. Contain construction waste before transport in tightly covered containers.			
Date		4. Maintain negative air pressure within work site utilizing HEPA equipped air filtration units.	10. Cover transport receptacles or carts. Tape covering.			
Initial		5. Do not remove barriers from work area until complete project is thoroughly cleaned by Environmental Services Dept.	11. Remove or isolate HVAC system in areas where work is being performed/			
Class IV		1. Obtain Infection Prevention and Control permit before construction begins. 2. Isolate HVAC system in area where work is being done to prevent contamination of duct system. 3. Complete all critical barriers or implement control cube method before construction begins.	7. All personnel entering work site are required to wear shoe covers 8. Do not remove barriers from work area until completed project is thoroughly cleaned by the Environmental Service Dept. 9. Vacuum work area with HEPA filtered vacuums. 10. Wet mop with disinfectant. 11. Remove barrier materials carefully to minimize spreading of dirt and debris associated with construction.			
Date		4. Maintain negative air pressure within work site utilizing HEPA equipped air filtration units.	12. Contain construction waste before transport in tightly covered containers. 13. Cover transport receptacles or carts. Tape covering.			
Initial		5. Seal holes, pipes, conduits, and punctures appropriately. 6. Construct anteroom and require all personnel to pass through this room so they can be vacuumed using a HEPA vacuum cleaner before leaving work site or they can wear cloth or paper coveralls that are removed each time they leave the work site.	14. Remove or isolate HVAC system in areas where is being done.			
Additional Requirements:						
Date Initials 12 Hour uninterrupted exchange required				Date Initials Exceptions/Additions to this permit are noted by attached memoranda		
Permit Request By:				Permit Authorized By:		

APPENDIX II – INFECTION CONTROL RISK ASSESSMENT AND PERMIT FORM

Type of ICRA: Water and Mold				Permit No:	
Location of Water Intrusion or Mold:				Project Start Date:	
Project Coordinator:				Estimated Duration:	
Response Team Performing Work				Permit Expiration Date:	
Supervisor:				Telephone:	
YES	NO	WATER INTRUSION: < 48 hours or > 48 without mold	YES	NO	INFECTION CONTROL RISK GROUP
		CATEGORY I: Clean Water			GROUP 1: Low Risk
		CATEGORY II: Gray Water			GROUP 2: Medium Risk
		CATEGORY III: Black Water			GROUP 3: High Risk
					GROUP 4: Highest Risk
YES	NO	AMOUNT OF MOLD IDENTIFIED	YES	NO	INFECTION CONTROL RISK GROUP
		Less than 10 square feet:			GROUP 1: Low Risk
		10 to 30 square feet:			GROUP 2: Medium Risk
		30-100 square feet:			GROUP 3: High Risk
		Greater than 100 square feet			GROUP 4: Highest Risk
		HVAC System			
W- 1		<ol style="list-style-type: none"> 1. Identify and remove source of water intrusion 2. Contain water to limited area. 		<ol style="list-style-type: none"> 5. Determine actions to remediate and restore damaged materials. 	
Date		<ol style="list-style-type: none"> 3. Protect components, furnishings, etc from direct contact with water. 		<ol style="list-style-type: none"> 6. Discard all unsalvageable contents and furnishings promptly. 	
Initial		<ol style="list-style-type: none"> 4. Extract water from all locations impacted by water intrusion. 			
W-2		<ol style="list-style-type: none"> 1. Identify and remove source of water intrusion 2. Contain water to limited area. 3. Block off and seal supply and return air vents. 4. Redirect and restrict access to affected areas to minimize cross contamination from affected areas. 		<ol style="list-style-type: none"> 7. Remove solid matter and extract water from all impacted locations. Vacuums must be equipped with HEPA filters. 8. Decontaminate damaged hard surface materials with approved disinfectant to reduce microbial load. 	
Date		<ol style="list-style-type: none"> 5. Evacuate high or highest risk patients from area. 		<ol style="list-style-type: none"> 9. Discard all highly absorbent, saturated materials promptly without cross-contaminating unaffected areas. 	
2. Initial		<ol style="list-style-type: none"> 6. Protect or remove contents in the area from direct contact with water. 		<ol style="list-style-type: none"> 10. Determine actions needed to remediate and restore damaged and/or contaminated materials. 	
3. W-3		<ol style="list-style-type: none"> 1. Identify and remove source of water intrusion 2. Contain water to limited area. 3. Block off and seal supply and return air vents. 4. Redirect and restrict access to affected areas to minimize cross contamination from affected areas 		<ol style="list-style-type: none"> 7. Remove solid matter and extract water from all locations that have been impacted. Vacuums must be equipped with HEPA filters. 8. Discard all absorbent, saturated materials promptly. 9. Decontaminate sewage-damaged hard surface materials with approved disinfectant to reduce microbial load. 	
Date		<ol style="list-style-type: none"> 5. Evacuate high or highest risk patients from area. 		<ol style="list-style-type: none"> 10. Remove all damaged porous materials. 	
Initial		<ol style="list-style-type: none"> 6. Protect and remove contents in the area from direct contact with water. 		<ol style="list-style-type: none"> 11. Determine actions needed to complete remediation. 	
Additional Requirements:					
ATTENDEE SIGNATURES			ATTENDEE SIGNATURES		
_____			_____		
_____			_____		
_____			_____		
_____			_____		
Date:			Exceptions/Additions to this permit are noted by attached memoranda. Date:		

SERVICE LOCATIONS

1. O'Connor Hospital
2105 Forest Ave
San Jose, CA 95128

2. O'Connor Medical Office Building
2101 Forest Ave
San Jose, CA 95128

HOLIDAY SCHEDULE

Day of Observance	Day of Week	Legal Holiday
January 1, 2021	Friday	January 1st
January 18, 2021	Monday	Martin Luther King, Jr. Birthday
February 15, 2021	Monday	Third Monday in February
March 31, 2021	Wednesday	Cesar E. Chavez Birthday
May 31, 2021	Monday	Last Monday in May
June 18, 2021	Friday	Juneteenth Day
July 5, 2021	Monday	July 4th
September 6, 2021	Monday	First Monday in September
October 11, 2021	Monday	Indigenous Peoples' Day
November 11, 2021	Thursday	Veterans Day
November 25, 2021	Thursday	Thanksgiving
November 26, 2021	Friday	Day after Thanksgiving
December 24, 2021	Friday	December 25th
December 31, 2021	Friday	January 1st

BID PROPOSAL FORM

From: (Bidder's Company)

Company Name: _____

Address: _____

Contact Person: _____

Telephone #: _____ Fax #: _____

Email Address: _____

To: The County of Santa Clara; herein called Owner:

Pursuant to and in compliance with the Notice to Bidders and the Contract Documents relating to **ITB-FAF-FY21-0168, FLOORING REPAIR SERVICES**, the undersigned bidder, having become thoroughly familiar with the terms and conditions of the Contract Documents and with local conditions affecting the performance and the costs of the Work at the place where the Work is to be done and having fully inspected the Work site in all particulars, hereby proposes and agrees to fully perform the Work within the Contract Time stated and in strict accordance with the Contract Documents, including providing any and all labor, consumables, materials, equipment other than specialty equipment, supplies, and tools, and performing all the Work required to construct and to complete the Work in accordance with the requirements of the Contract Documents. Fixtures that become County property as a result of the Work shall be reimbursable at cost plus a percentage markup. Documentation or verification of materials costs will be required for compensation. A quantity/unit of one (1) shall be used as a basis for the comparison of bids. The lowest bid will be determined based on the Grand Total Amount.

An estimated or To-Be-Determined (TBD) bid will not be considered.

Indicate your unit price for each item listed on the Pre-Priced Schedule. Calculate the Pre-Priced List Total by adding each unit price per item. The basis for comparison of bids will be the Grand Total represented by the cumulative total bid items: Sum of Pre-Priced List, Percentage Markup on Fixtures Multiplied, and Service Call Fee for Emergency Call and Repair

Bidders are required to bid unit prices that include all costs that bidders are expected to incur in the performance of the Work, except for the costs of specialty equipment as discussed herein, and except for any separate items set forth on the Bid Form (e.g., fixtures). Specified costs to be included in unit prices shall include, but not be limited to: All labor required to perform the Work with trained personnel and supervision; Payment of prevailing wage labor rates for Santa Clara County; All legally mandated costs associated with the Work (e.g., employer payroll taxes, obligations pursuant to any applicable collective bargaining agreements, et al.); All supplies required to perform the Work including, but not limited to, materials, tools, and consumables including, but not limited to, workers' supplies or protective garments; Disposable items used in furtherance of completing the Work; Equipment other than specialty equipment; and, Waste management and disposal.

The daily overtime rates apply whenever the work performed exceeds eight hours during any one calendar day, or 40 hours per week. Saturday, Sunday and Holiday premium rates apply for the hours worked on each of those days as specified in the applicable prevailing wage determination.

Work completed outside regular business hours is entitled to shift differential pay. Contractor shall refer to the Department of Industrial Relation’s Shift Provisions for guidance on the work hours that are applicable to each shift.

PRE-PRICED SCHEDULE

ITEM DESCRIPTION	UNIT PRICE	UNIT OF MEASURE
a. Waste Management and Disposal (cost include all applicable regulator fees and taxes) Drop-Off at Recycling Landfill Dump Fee included	\$	TON
b. Furnish and Install Carpet and Pad, includes removal and disposal of old flooring materials	\$	SQ YD
c. Furnish and Install Carpet Tile, includes removal and disposal of old flooring materials	\$	SQ FT
d. Furnish and Install <i>PVC Flooring</i> , includes removal and disposal of old flooring materials.	\$	SQ FT
e. Furnish and Install <i>Rubber Flooring</i> , includes removal and disposal of old flooring materials.	\$	SQ FT
f. Furnish and Install <i>Linoleum Flooring</i> , includes removal and disposal of old flooring materials.	\$	SQ FT
g. Furnish and Install <i>Vinyl Flooring</i> , includes removal and disposal of old flooring materials.	\$	SQ FT
h. Furnish and Install <i>VCT (Vinyl Composite Tile) Flooring</i> , includes removal and disposal of old flooring materials.	\$	SQ FT
i. Furnish and Install <i>LVP (Luxury Vinyl Plank) Flooring</i> , includes removal and disposal of old flooring materials.	\$	SQ FT
j. Furnish and Install <i>LVT (Luxury Vinyl Tile) Flooring</i> , includes removal and disposal of old flooring materials.	\$	SQ FT
k. Furnish and Install <i>Hardwood</i> includes removal and disposal of old flooring materials.	\$	SQ FT
l. Furnish and Install <i>Natural Stone</i> includes removal and disposal of old flooring materials.	\$	SQ FT
m. Furnish and Install <i>Engineered Wood</i> includes removal and disposal of old flooring materials.	\$	SQ FT
n. Furnish and Install <i>Laminates</i> includes removal and disposal of old flooring materials.	\$	SQ FT
o. Furnish and Install <i>Ceramic Tile</i> includes removal and disposal of old flooring materials.	\$	SQ FT
p. Furnish and Install <i>Porcelain Tile</i> includes removal and disposal of old flooring materials.	\$	SQ FT
q. Furnish and Install 6 inch vinyl base-board, includes removal and disposal of old materials		LINEAR FT

r. Furnish and Install 4 inch vinyl base-board, includes removal and disposal of old materials	\$	LINEAR FT
s. Furnish and Install sub-floor, includes removal and disposal of old flooring materials	\$	SQ YD
t. Re-stretching of existing carpet	\$	SQ YD
u. Epoxy Flooring	\$	SQ FT
Pre-Priced List TOTAL	\$	

FIXTURES MARKUP PERCENTAGE (Rates shall not exceed 15%)	FIXTURES MARKUP
\$1,000 x % MARKUP (ex. \$1,000 x 10% = \$100)	
<i>The \$1,000-dollar figure is not intended to be a commitment for fixtures for any given project and is only being used for bid evaluation purposes.</i>	
TOTAL (FIXTURES)	\$

EMERGENCY CALL & REPAIR FEE	PER INCIDENT FEE
Service Call Fee <i>per</i> Emergency Call/Repair - Contractor shall respond within one (1) hour or less and arrive onsite within two (2) hours from when the emergency call was received.	
TOTAL (EMERGENCY CALL & REPAIR FEE)	
<i>Service Call Fee per Emergency Call/Repair is an optional surcharge, in addition to billable hourly rates, for responding to emergency calls. If there would be no additional fee for such service calls, the fee amount would be zero dollars (\$0).</i>	\$

PRE-PRICED LIST TOTAL	\$
FIXTURES (\$1,000 x PERCENTAGE MARKUP)	\$
EMERGENCY CALL & REPAIR FEE	\$
TOTAL BID (Sum of Pre-Priced List, Percentage Markup on Fixtures Multiplied, and Service Call Fee for Emergency Call & Repair. GRAND TOTAL	\$

The bid prices above include all addenda issued by the County.

BIDDER'S CONTRACT AUTHORIZATION

NOTE: If the bidder is a corporation or limited liability company ("LLC"), the legal name of the corporation or LLC must be set forth below together with the signature of the officer or officers authorized to sign contracts on behalf of the corporation or LLC; if the bidder is a partnership, the name of the firm must be set forth below together with the signature of the partner or partners authorized to sign contracts on behalf of the partnership; and if the bidder is an individual, the bidder must sign below.

I declare under penalty of perjury under the laws of the State of California that the information supplied above is true and correct:

SIGNATURE BLOCK (Signature Block must be completed in ink & changes must be initialed.)	
Bidder's Signature: _____	Date: _____
Bidder's Name & Title (Print): _____	

BIDDER'S BOND

WHEREAS, we, _____ as Principal,

and _____ as Surety, are held and firmly bound unto the County of Santa Clara, a political subdivision of the State of California ("County") in the penal sum of TEN PERCENT (10%) of the total aggregate amount of the bid of the Principal above named, submitted by said Principal to County for the Work described below, for the payment of which sum in lawful money of the United States, well and truly to be made, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, firmly by these presents.

WHEREAS, the said Principal is submitting a bid to County for certain construction specifically described as follows,

FLOORING REPAIR SERVICES, ITB-FAF-FY21-0168; bid is to be opened on February 27, 2021 at 3:00 p.m. has been submitted by Principal to the County:

THE CONDITION OF THIS OBLIGATION IS THAT if the aforesaid Principal shall not withdraw said bid within the period specified therein after the opening of the same or, if no period be specified, within sixty (60) days after said opening, and shall within the period specified therefore, or if no period be specified, within twenty (20) days after the prescribed forms are presented to Principal for signature, enter into a written Contract with County, in the prescribed form, in accordance with the bid as accepted, and file the two Bonds with County, one to guarantee faithful Performance and the other to guarantee Payment for labor and materials, as required by law, or in the event of the withdrawal of said bid within the period specified or the failure to enter into such Contract and give such Bonds within the time specified, if the Principal shall pay County the difference between the amount specified in said bid and the amount for which County may procure the required Work and/or supplies, if the latter amount be in excess of the former, together with all costs incurred by County in again calling for bids, then the above obligation shall be void and of no effect, otherwise to remain in full force and virtue.

Surety for value received, hereby stipulates and agrees that no change, extension of time, alterations, or addition to the terms of the Contract on the call for bids, or to the Work to be performed thereunder, or the specifications accompanying the same, shall in any way affect its obligation under this Bond, and it does, hereby, waive notice of any such change, extension of time, alteration, or addition to the terms of specifications.

In the event suit or claim for payment is brought upon this Bond by the County of Santa Clara, and County prevails before an adjudicatory body, Surety shall pay all costs incurred by the County of Santa Clara in such suit or claim, including a reasonable attorney's fee to be fixed by the adjudicatory body in accordance with applicable statutory law.

BIDDER'S BOND (CONTINUED)

IN WITNESS WHEREOF, we have hereunto set our hands and seals on this _____ day of _____, 20_____.

PRINCIPAL: _____ SURETY: _____

Signature

Signature

Name

Name

Address

Address

NOTE TO SURETY COMPANY: The following form of acknowledgement should be used. If any other form of acknowledgement is used, there must be submitted an original or an original certified copy of unrevoked resolution of authority for the attorney-in-fact.

SURETY COMPANY ATTORNEY-IN-FACT

STATE OF CALIFORNIA)
COUNTY OF SANTA CLARA) ss.

On _____, before me, the undersigned, a Notary Public in and for the State, personally appeared _____, known to me to be the duly authorized Attorney-in-Fact of the corporate Surety named in the within instrument, known to me to be authorized to execute that instrument on behalf of said corporation, known to me to be the person whose name is subscribed to such instrument as the Attorney-in-Fact of said corporation, and acknowledged to me that he (she) subscribed the name of said corporation thereto as Surety, and his (her) own name as Attorney-in-Fact and that said corporation executed the same.

WITNESS MY HAND AND OFFICIAL SEAL:

(SEAL)

Notary Public for the State of California.

Original Acknowledgement by Attorney-in-Fact must be attached.
Original Corporate seals of Principal and Surety must be attached.

OWNER/CONTRACTOR AGREEMENT

This is an agreement ("Agreement") between the County of Santa Clara, ("Owner") and **(Insert Contractor's Name)** ("Contractor") for the **FLOORING REPAIR SERVICES**

Owner and Contractor agree as follows:

ARTICLE I — SCOPE OF WORK

Contractor shall be responsible for all necessary equipment, tools, consumables, materials, labor, and supplies required to perform the work as specified in Exhibit H, Scope of Work/Specifications, in accordance with the Contract Documents.

ARTICLE II — CONTRACT TERM

This Agreement shall not be effective or binding unless approved in writing by the authorized designees of both Parties as evidenced by their signatures as set forth in this Agreement. The term of this Agreement shall begin on the Effective Date and end 12 months from the Effective Date, unless terminated earlier or otherwise amended. The County reserves the right to, in its sole discretion, renew this Contract for an additional 12-month term.

ARTICLE III — CONTRACT SUM

As full compensation for furnishing all materials and performing all the Work contemplated and encompassed by this Agreement, for all loss and/or damage, arising out of the Work, or from actions of the elements, or from any unforeseen difficulties or obstructions which may arise or be encountered in the prosecution of the Work until its Acceptance by Owner; for all risks of every description connected with the Work; and for all expenses incurred by or in consequence of the suspension or discontinuance of Work thereof, in the manner and according to the Contract Documents, Owner shall pay the amount specified by Contractor on the Bid Form as follows: Insert award sum.

ARTICLE IV — CONTRACT DOCUMENTS

All rights and obligations of Owner and Contractor are fully set forth and described in the Contract Documents, which are incorporated into this Agreement by this reference. All parts of the Contract Documents are intended to be correlated so that any Work called for in one part and not mentioned in the other, or vice versa, is to be executed the same as if mentioned in all Contract Documents. The following shall be incorporated and constitute a material part of the Contract Documents:

EXHIBIT A -- General Conditions
EXHIBIT B -- Insurance Requirements
EXHIBIT C -- Workers' Compensation
EXHIBIT D -- Bidder's Certification
EXHIBIT E -- Prevailing Wage Statement
EXHIBIT F -- Designation of Subcontractors
EXHIBIT G -- Customer References
EXHIBIT H -- Scope of Work/Specifications
BID PROPOSAL FORM
ESTIMATE AND INVOICE WORKBOOK
BID, PERFORMANCE & PAYMENT BONDS
STOP PAYMENT NOTICE INFORMATION
NOTICE TO BIDDERS
INSTRUCTIONS TO BIDDERS

ARTICLE V — BEGINNING OF WORK:

Owner's Authorized Representative will issue a Notice to Proceed with the Work that will state the first day charged to the Contract Time.

ARTICLE VI — LIQUIDATED DAMAGES

The Completion Date for the Project Work shall be as agreed upon by both parties, and as specified in the Work Order Request.

The Work may be commenced only after Owner's issuance of the Notice to Proceed, issued by Owner's Authorized Representative.

Owner and Contractor recognize that time is of the essence of this Agreement, and that Owner will suffer financial loss if the work is not fully complete within the time specified. Owner and Contractor further recognize the delays, expense, and difficulty in proving Owner's losses, and accordingly, instead of requiring such proof, agree that Liquidated Damages shall be assessed in the amount of \$250 for each calendar day the Work remains incomplete beyond the Completion Date.

Owner may withhold Liquidated Damages from payments to the Contractor as such damages accrue, or, at Owner's discretion, withhold Liquidated Damages from any payments due, or that become due, pursuant to the Contract, including retention and final payment (pursuant to Government Code section 53069.85).

ARTICLE VII — PREVAILING WAGES; APPRENTICESHIP

This Project is a public work, subject to Labor Code section 1771. The general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in this locality for each craft, classification, or type of worker needed to execute this Agreement is that ascertained by the Director of the California Department of Industrial Relations ("DIR"), copies of which are on file with the Clerk of the Board of Supervisors, 70 West Hedding Street, East Wing, 10th Floor, San Jose, California 95110. The Prevailing Rate Schedules will be made available to any interested party on request.

No Contractor or Subcontractor may perform Work under this Agreement without being registered with the DIR. Contractor represents and warrants that it is registered with the DIR. Contractor shall maintain its registration with the DIR throughout the course of the Work. Contractor is responsible for verifying that each Subcontractor, including any Subcontractor not listed on the Contractor's proposal, is registered with the DIR at the time the Subcontractor performs Work. If any Subcontractor is not registered at the time the Subcontractor is to commence Work, Contractor shall require the Subcontractor to register with the DIR, and may not permit the Subcontractor to commence Work until the Subcontractor's registration is complete.

Contractor agrees to comply with all relevant provisions of the Labor Code, including but not limited to, the provisions of Labor Code section 1775 relating to the payment of prevailing wages, section 1777.5 relating to the employment of apprentices, and sections 1811 through 1813 relating to the payment of overtime. Failure to comply with the proper prevailing wage requirements may result in a penalty of up to \$200 per day per worker. Failure to comply with apprenticeship requirements may result in a penalty between \$100 and \$300 for each calendar day of violation. Failure to pay proper overtime rate may result in a penalty of \$25 per day per worker. Contractor shall comply with the payroll record requirements and apprentice requirements in the applicable sections of the Labor Code.

ARTICLE VIII — COUNTY’S MANDATORY POLICY PROVISIONS**8.01 Food and Beverage Standards**

Except in the event of an emergency or medical necessity, the following nutritional standards shall apply to any foods and/or beverages purchased by Contractor with County funds for County-sponsored meetings or events.

If food is to be provided, healthier food options shall be offered. “Healthier food options” include (1) fruits, vegetables, whole grains, and low fat and low calorie foods; (2) minimally processed foods without added sugar and with low sodium; (3) foods prepared using healthy cooking techniques; and (4) foods with less than 0.5 grams of trans fat per serving. Whenever possible, Contractor shall (1) offer seasonal and local produce; (2) serve fruit instead of sugary, high calorie desserts; (3) attempt to accommodate special, dietary, and cultural needs; and, (4) post nutritional information and/or a list of ingredients for items served. If meals are to be provided, a vegetarian option shall be provided, and the Contractor should consider providing a vegan option. If pre-packaged snack foods are provided, the items shall contain: (1) no more than 35% of calories from fat, unless the snack food items consist solely of nuts or seeds; (2) no more than 10% of calories from saturated fat; (3) zero trans fat; (4) no more than 35% of total weight from sugar and caloric sweeteners, except for fruits and vegetables with no added sweeteners or fats; and, (5) no more than 360 mg of sodium per serving.

If beverages are to be provided, beverages that meet the County’s nutritional criteria are (1) water with no caloric sweeteners; (2) unsweetened coffee or tea, provided that sugar and sugar substitutes may be provided as condiments; (3) unsweetened, unflavored, reduced fat (either nonfat or 1% low fat) dairy milk; (4) plant-derived milk (e.g., soy milk, rice milk, and almond milk) with no more than 130 calories per 8 ounce serving; (5) 100% fruit or vegetable juice (limited to a maximum of 8 ounces per container); and, (6) other low-calorie beverages (including tea and/or diet soda) that do not exceed 40 calories per 8 ounce serving. Sugar-sweetened beverages shall not be provided.

8.02 No Smoking Policy

Contractor and its employees, agents and Subcontractor(s), shall comply with the County’s No-Smoking Policy, as set forth in the Board of Supervisors Policy Manual section 3.47 (as amended from time to time), which prohibits smoking: (1) at the Santa Clara Valley Medical Center Campus and all County-owned and operated health facilities, (2) within 30 feet surrounding County-owned buildings and leased buildings where the County is the sole occupant, and (3) in all County vehicles.

8.03 Compliance With All Laws, Including Nondiscrimination, Equal Opportunity, and Wage Theft Prevention

- A.** Compliance with All Laws. Contractor shall comply with all applicable federal, state, and local laws, regulations, rules, and policies (collectively, “Laws”), including but not limited to the non-discrimination, equal opportunity, and wage and hour Laws referenced in the paragraphs below.
- B.** Compliance with Non-Discrimination and Equal Opportunity Laws: Contractor shall comply with all applicable Laws concerning nondiscrimination and equal opportunity in employment and contracting, including but not limited to the following: County’s policies for contractors on nondiscrimination and equal opportunity; Title VII of the Civil Rights Act of 1964 as amended; Americans with Disabilities Act of 1990; the Age Discrimination in Employment Act of 1967; the Rehabilitation Act of 1973 (Sections 503 and 504); the Equal Pay Act of 1963; California Fair Employment and Housing Act (Government Code section

12900 et seq.); California Labor Code sections 1101, 1102, and 1197.5; and the Genetic Information Nondiscrimination Act of 2008. In addition to the foregoing, Contractor shall not discriminate against any subcontractor, employee, or applicant for employment because of age, race, color, national origin, ancestry, religion, sex, gender identity, gender expression, sexual orientation, mental disability, physical disability, medical condition, political belief, organizational affiliation, or marital status in the recruitment, selection for training (including but not limited to apprenticeship), hiring, employment, assignment, promotion, layoff, rates of pay or other forms of compensation. Nor shall Contractor discriminate in the provision of services provided under this contract because of age, race, color, national origin, ancestry, religion, sex, gender identity, gender expression, sexual orientation, mental disability, physical disability, medical condition, political beliefs, organizational affiliations, or marital status.

- C.** Compliance with Wage and Hour Laws: Contractor shall comply with all applicable wage and hour Laws, which may include but are not limited to, the Federal Fair Labor Standards Act, the California Labor Code, and, if applicable, any local minimum wage, prevailing wage, or living wage Laws.
- D.** Definitions: For purposes of this Article, the following definitions shall apply. A “Final Judgment” shall mean a judgment, decision, determination, or order (a) which is issued by a court of law, an investigatory government agency authorized by law to enforce an applicable Law, an arbiter, or arbitration panel, and (b) for which all appeals have been exhausted or the time period to appeal has expired. For pay equity Laws, relevant investigatory government agencies include the federal Equal Employment Opportunity Commission, the California Division of Labor Standards Enforcement, and the California Department of Fair Employment and Housing. Violation of a pay equity Law shall mean unlawful discrimination in compensation on the basis of an individual’s sex, gender, gender identity, gender expression, sexual orientation, race, color, ethnicity, or national origin under Title VII of the Civil Rights Act of 1964 as amended, the Equal Pay Act of 1963, California Fair Employment and Housing Act, or California Labor Code section 1197.5, as applicable. For wage and hour Laws, relevant investigatory government agencies include the federal Department of Labor, the California Division of Labor Standards Enforcement, and the City of San Jose’s Office of Equality Assurance.
- E.** Prior Judgments, Decisions or Orders against Contractor: By signing this Agreement, Contractor affirms that it has disclosed any Final Judgments that (a) were issued in the 5 years prior to executing this Agreement by a court, an investigatory government agency, arbiter, or arbitration panel, and (b) found that Contractor violated an applicable wage and hour law or pay equity law. Contractor further affirms that it has satisfied and complied with – or has reached Agreement with the County regarding the manner in which it will satisfy – any such final judgments.
- F.** Violations of Wage and Hour Laws or Pay Equity Laws During Term of Contract: If at any time during the term of this Agreement, Contractor receives a Final Judgment rendered against it for violation of an applicable wage and hour Law or pay equity Law, then Contractor shall promptly satisfy and comply with any such Final Judgment. Contractor shall inform the Office of the County Executive-Office of Countywide Contracting Management (“OCCM”) of any relevant Final Judgment against it within 30 calendar days of the Final Judgment becoming final, or of learning of the Final Judgment, whichever is later. Contractor shall also provide any documentary evidence of compliance with the Final Judgment within 5 calendar days of satisfying the Final Judgment. Any notice required by this paragraph shall be addressed to the Office of the County Executive-OCCM at 70 West Hedding Street, East Wing, 11th Floor, San José, California 95110. Notice provisions in this paragraph are separate from any other notice provisions in this Agreement and,

accordingly, only notice provided to the Office of the County Executive-OCCM satisfies the notice requirements in this paragraph.

- G.** Access to Records Concerning Compliance with Pay Equity Laws: In addition to, and notwithstanding, any other provision of this Agreement concerning access to Contractor's records, Contractor shall permit the County and/or its authorized representatives to audit and review records related to compliance with applicable pay equity Laws. Upon the County's request, Contractor shall provide the County with access to any and all facilities and records, including but not limited to financial and employee records, except where prohibited by federal or state laws, regulations, or rules. County's access to such records and facilities shall be permitted at any time during Contractor's normal business hours upon no less than 10 calendar days advance notice.
- H.** Pay Equity Notification: Contractor shall (a) at least once in the first year of this Agreement, and annually thereafter, provide each of its employees working in California, and each person applying to Contractor for a job in California (collectively, "Employees and Job Applicants") with an electronic or paper copy of all applicable pay equity Laws, or (2) throughout the term of this Agreement, continuously post an electronic copy of all applicable pay equity Laws in conspicuous places accessible to all of Contractor's Employees and Job Applicants.
- I.** Material Breach: Failure to comply with any part of this article shall constitute a material breach of this Agreement. In the event of such a breach, the County may, in its discretion, exercise any or all remedies available under this Agreement and at law. County may, among other things, take any or all of the following actions:
1. Suspend or terminate any or all parts of this Agreement;
 2. Withhold payment to Contractor until full satisfaction of a Final Judgment concerning violation of an applicable wage and hour Law or pay equity Law; and/or,
 3. Offer Contractor an opportunity to cure the breach.
- J.** Subcontractors: Contractor shall impose all of the requirements set forth in this Subsection H on any subcontractors permitted to perform work under this Agreement. This includes ensuring that any subcontractor receiving a Final Judgment for violation of an applicable Law promptly satisfies and complies with such Final Judgment.

8.04 Living Wage

Unless otherwise exempted or prohibited by law or County policy, all contractors that contract with the County to provide Direct Services, as defined in County of Santa Clara Ordinance Code Division B36 ("Division B36") and Board Policy section 5.5.5.5 ("Living Wage Policy"), and their subcontractors, where the contract value is \$100,000 or more, must comply with Division B36 and the Living Wage Policy and compensate their employees in accordance with Division B36 and the Living Wage Policy. Compliance and compensation for purposes of this provision includes, but is not limited to, components relating to fair compensation, earned sick leave, paid jury duty, fair workweek, worker retention, fair chance hiring, targeted hiring, local hiring, protection from retaliation, and labor peace. If Contractor and/or a Subcontractor violates this provision, the Board of Supervisors or its designee may, at its sole discretion, take responsive actions including, but not limited to, the following:

- A.** Suspend, modify, or terminate the Direct Services Contract;

- B. Require the Contractor and/or Subcontractor to comply with an appropriate remediation plan developed by the County; and/or,
- C. Waive all or part of Division B36 or the Living Wage Policy.

This provision shall not be construed to limit an employee's rights to bring any legal action for violation of the employee's rights under Division B36 or any other applicable law. Further, this provision does not confer any rights upon any person or entity other than the Board of Supervisors or its designee to bring any action seeking the cancellation or suspension of a County contract. By entering into this contract, Contractor certifies that it is currently complying with Division B36 and the Living Wage Policy with respect to applicable contracts, and warrants that it will continue to comply with Division B36 and the Living Wage Policy with respect to applicable contracts.

ARTICLE IX — OWNER'S REPRESENTATIVES

The Owner's Authorized Representative during the Project Work is the Project Manager listed on the Project Title Page, or designee, who has authority to approve change orders, payment requests, and other documents. Any notice to the Owner's Authorized Representative under the Contract Documents shall be sent to:

County of Santa Clara – Facilities and Fleet
Attn.: Rocio Reyes, Contract Administrator
2310 N. First Street, Suite 200
San Jose, CA 95131

Tel. 408-993-4748 / Fax 408-993-4777
Email: Rocio.reyes@faf.sccgov.org

The County's Project Manager for this Project is [name] at [phone number]. E-Mail: [email address]. The County's Project Manager is responsible for the day to day management of the Project.

The parties have executed this Agreement Number XXXXXXXXX DIR Project ID XXXXXX is effective as of the date executed by the Director of Facilities and Fleet.

ARTICLE X — NOTICE OF HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA) AND PATIENT PRIVACY LAW COMPLIANCE

While performing the Work, Contractor may have direct or incidental access to "Protected Health Information" or "PHI" or contact with patients. For purposes of this section, "Protected Health Information" or "PHI" shall have the meaning provided by the Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R. Part 160 and Subparts A and E of Part 164 (the "Privacy Standards") as promulgated by the Department of Health and Human Services ("HHS") pursuant to the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") (42 U.S.C. Section 1320d, et seq.), California Civil Code Section 56.20 et seq. and other applicable California laws (each and collectively, the "HIPAA Laws").

While on site, Contractor shall endeavor to implement reasonable safeguards to protect PHI from any intentional or unintentional disclosure to third parties in violation of the Privacy Standards by implementing appropriate administrative, technical, and physical safeguards to limit incidental disclosures of PHI to any person or entity. The parties agree that neither Contractor nor Contractor's representatives shall need access to, nor shall Contractor or its representatives use or disclose, any PHI. In the event, however, PHI is disclosed to Contractor or its representatives, or to others by Contractor or its representatives, either directly or indirectly and regardless of

whether the disclosure is inadvertent or otherwise, Contractor agrees to take reasonable steps to maintain, and to require its representatives to maintain, the privacy and confidentiality of such PHI, including that no PHI will be knowingly removed from the Work site by anyone, and no PHI will be discussed with or otherwise knowingly disclosed to any other person or entity. Contractor agrees to immediately notify Owner upon learning of any disclosure of PHI. The parties agree that the foregoing does not create, and is not intended to create, a "business associate" relationship between the parties as that term is defined by the Privacy Standards.

ARTICLE XI — COUNTERPARTS; ELECTRONIC/DIGITAL SIGNATURES

Unless otherwise prohibited by law or County policy, the parties agree that an electronic copy of a signed contract, or an electronically signed contract, has the same force and legal effect as a contract executed with an original ink signature. The term "electronic copy of a signed contract" refers to a transmission by facsimile, electronic mail, or other electronic means of a copy of an original signed contract in a portable document format. The term "electronically signed contract" means a contract that is executed by applying an electronic signature using technology approved by the County.

COUNTY OF SANTA CLARA:

CONTRACTOR:

Jeff Draper
Director of Facilities and Fleet

President

Date: _____

Date: _____

Contractor's License No.:
License Class:
License Expiration Date:

APPROVED AS TO FORM AND LEGALITY:

John A. Castro
Deputy County Counsel

If this Agreement is signed outside of the State of California, a notarized acknowledgement is required.

PERFORMANCE BOND

WHEREAS, the Board of Supervisors of the County of Santa Clara, State of California, and _____ hereinafter designated as "Principal" have entered into an Agreement for the furnishing of all materials, labor, services and equipment necessary, convenient and proper to:

pursuant to the said Agreement dated _____, 20____, and all of the documents attached thereto and incorporated by reference, becoming a part of said Agreement and forming the contract for the Project described therein ("Contract"), are hereby referred to and made a part hereof; and,

WHEREAS, said Principal is required according to the terms of said Agreement and applicable California State law, to furnish a Bond for the faithful Performance of said Agreement.

NOW, THEREFORE, we, the Principal and _____ as Surety, are held and firmly bound unto the County of Santa Clara, hereinafter designated as "Owner," in the penal sum of: _____ Dollars (\$ _____), lawful money of the United States of America, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if said Principal, or its heirs, executors, administrators, successors, or assigns approved by Owner, shall promptly and faithfully perform all of the covenants, conditions, and agreements in the Contract during the original term and any extensions thereof as may be granted by Owner, with or without notice to Surety, and during the period of any guarantees or warranties required under the Contract, and shall also promptly and faithfully perform all the covenants, conditions, and agreements of any and all alterations of the Contract made as therein provided, notice of which alterations to Surety being hereby waived, on Principal's part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall defend, indemnify and hold harmless Owner, its officers, agents, and employees, as stipulated in the Contract, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

And the said Surety for value received, hereby stipulates and agrees that no change, extension of time, alteration, addition or deletion to the Contract, or to the work to be performed hereunder, or work or actions by Owner to mitigate the damages resulting from any breach in performance by Principal, or work or actions to protect the work or property, shall in any way release or exonerate Surety on this Bond or in any way affect the obligations of this Bond, and the Surety hereby waives notice of any such change, extension of time, alteration, addition or deletion, work, or actions.

Whenever Principal shall be and declared by Owner in default under the Contract, Surety shall promptly remedy the default, or shall promptly, and in no event later than 45 days from receipt of such notice or 30 days following the effective date of a termination of Principal's right to proceed with the work, elect and commence performance of one of the following options:

- A.** Undertake performance and completion of the Contract, through its agents or independent contractors (but having qualifications and experience meeting Contract requirements in the reasonable judgment of the Owner), to perform and complete the Contract in accordance with its terms and conditions and to pay and perform all obligations of Principal under the

Contract, including without limitation, all obligations with respect to warranties, guarantees, indemnities, and the payment of liquidated damages; or,

- B.** Obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and, upon determination by Owner of the lowest responsible bidder, arrange for a contract between such bidder and Owner and make available as work progresses (even though there should be a default or a succession of defaults under the contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the contract sum remaining on the date of effectiveness of such termination, and to pay and perform all obligations of Principal under the Contract, including, without limitation, all obligations with respect to warranties, guarantees, and the payment of liquidated damages.

Surety's total obligations hereunder shall not exceed the amount set forth above as the Penal Sum. The term "balance of the contract sum," as used in the above paragraph, shall mean the total amount payable by Owner to the Principal under the Contract and any amendments thereto, less the amount paid by Owner to Principal.

Surety's obligations hereunder are independent of the obligations of any other surety for the performance of the Contract, and suit may be brought against Surety and such other sureties, jointly and severally, or against any one or more of them, or against less than all of them without impairing Owner's rights against the others.

Surety may not use Contractor to complete the Contract absent Owner's Consent. Owner shall have the right in its sole discretion to continue the work of the Contract, following a default and/or termination, as necessary to prevent risks of personal injury, property damage or delay to the Project pending Surety's election described above.

No right of action shall accrue on this bond to or for the use of any person or corporation other than Owner or its successors or assigns.

Surety shall join in any proceedings brought under the Contract upon Owner's demand, and shall be bound by any judgment. Correspondence or claims relating to this bond shall be sent to Surety at the address set forth below. Notices and elections may be sent by overnight mail, confirmed by email, in addition to methods required by Contract.

In the event suit is brought upon this Bond by the County of Santa Clara and judgment is recovered, Surety shall pay all costs incurred by the County of Santa Clara in such suit, including a reasonable attorney's fee to be fixed by the court in accordance with applicable statutory law.

The Surety, by the execution of this Bond, represents and warrants that this Bond has also been duly executed by the Principal with proper authority, and the Surety hereby waives any defense which it might have by reason of any failure by the Principal to execute or properly execute this Bond

PERFORMANCE BOND (CONTINUED)

IN WITNESS WHEREOF two identical counterparts of this instrument, each of which shall for all purposes be deemed an original thereof, have been duly executed by the Principal and Surety above named on the _____ day of _____, 20____.

PRINCIPAL:

SURETY:

Signature

Signature

Name

Name

Title

Title

Address

Address

NOTE TO SURETY COMPANY: The following form of original acknowledgement should be used. If any other form of acknowledgement is used, there must be submitted a certified copy of unrevoked resolution of authority for the attorney-in-fact.

SURETY COMPANY ATTORNEY-IN-FACT

STATE OF CALIFORNIA)
COUNTY OF SANTA CLARA) ss.
)

On _____, before me, the undersigned, a Notary Public in and for _____ the _____ State, _____ personally appeared _____, known to me to be the duly authorized Attorney-in-Fact of the corporate Surety named in the within instrument, known to me to be authorized to execute that instrument on behalf of said corporation, known to me to be the person whose name is subscribed to such instrument as the Attorney-in-Fact of said corporation, and acknowledged to me that he (she) subscribed the name of said corporation thereto as Surety, and his (her) own name as Attorney-in-Fact and that said corporation executed the same.

WITNESS MY HAND AND OFFICIAL SEAL:

(SEAL)

Notary Public for the State of California

Original Acknowledgement by Attorney-in-Fact must be attached.
Corporate seals of Principal and Surety must be attached.

PAYMENT BOND

WHEREAS, the Board of Supervisors of the County of Santa Clara, State of California, and _____

hereinafter designated as "Principal" have entered into an Agreement for the furnishing of all materials, labor, services and equipment necessary, convenient and proper to:

pursuant to the said Agreement dated _____, 20____, and all of the documents attached thereto and incorporated by reference, becoming a part of said Agreement, are hereby referred to and made a part hereof; and,

WHEREAS, said Principal is required by the Civil Code at Title 1, Chapter 4 (commencing at section 8152) and Title 3, Chapter 5 (commencing at section 9550), Division 4, Part 6, to furnish a Bond in connection with said Agreement.

NOW THEREFORE, we, the Principal and _____ as Surety, are held and firmly bound unto the County of Santa Clara in the penal sum of: _____ dollars (\$_____), lawful money of the United States of America, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, and assigns, jointly and severally, firmly by these presents.

lawful money of the United States of America, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT if said Principal, its subcontractors, heirs, executors, administrators, successors or assigns shall fail to pay any of the persons named in Civil Code section 9100 of, any amounts due under the Unemployment Insurance Code with respect to work or labor performed by any such claimant, any prevailing wages due and penalties incurred pursuant to Labor Code sections 1774, 1775, 1813 and 1815, any amounts required to be deducted or withheld from the wages of employees of the Principal and its subcontractors for payment to the United States Government and/or to the State Franchise Tax Board with respect to such work and labor, the Surety will pay for the same, in an amount not exceeding the total sum herein above specified, and also, in case suit is brought upon this Bond, a reasonable attorney's fee to be fixed by the court. This Bond shall inure to the benefit of any of the persons named in Civil Code section 9100, so as to give the right of action to such persons or their assigns in any suit brought upon this Bond.

It is further stipulated and agreed that the Surety on this Bond shall not be exonerated or released from the obligation of this Bond by any change, extension of time for performance, addition, deletion, alteration, or modification in, to, or any contract, plans, specifications, or agreement pertaining or relating to any scheme or work of improvement herein above described or pertaining to or relating to the furnishing of labor, materials, or equipment therefore, nor by any change or modification of any terms of payment or extension of the time for any payment pertaining or relating to any scheme or work of improvement herein above described, nor by any rescission or attempted rescission of the contract, agreement, or Bond, nor by any conditions precedent or subsequent in the Bond attempting to limit the right of recovery of claimants otherwise entitled to recover under any such contract or agreement or under the Bond, nor by any fraud practiced by any person other than the claimant seeking to recover on the Bond, and that this Bond be construed most strongly against the Surety and in favor of all persons for whose benefit such Bond is given, and in conformance with the Mechanic's Lien Law of the State of California, and under no circumstances shall the Surety be released from its obligations hereunder by reason of any breach of contract between the County of Santa Clara and said Principal or on the part of any obligee named in such Bond, but the sole conditions of recovery shall be that claimant is a person described in Civil Code section 9100 and has not been paid the full amount of its claim, and that Surety does hereby waive notice of any such change, extension of time, addition, deletion, alteration, or modification herein mentioned.

PAYMENT BOND INFO

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The Surety, by the execution of this Bond, represents and warrants that this Bond has also been duly executed by the Principal with proper authority, and the Surety hereby waives any defense which it might have by reason of any failure by the Principal to execute or properly execute this Bond.

IN WITNESS WHEREOF two identical counterparts of this instrument each of which shall for all purposes be deemed an original thereof, have been duly executed by the Principal and Surety above named on the _____ day of _____, 20____.

PRINCIPAL:

SURETY:

Signature

Signature

Name

Name

Title

Title

Address

Address

SURETY COMPANY ATTORNEY-IN-FACT

STATE OF CALIFORNIA)
COUNTY OF SANTA CLARA) ss.
)

On _____, before me, the undersigned, a Notary Public in and for the State, personally appeared _____, known to me to be the duly authorized Attorney-in-Fact of the corporate Surety named in the within instrument, known to me to be authorized to execute that instrument on behalf of said corporation, known to me to be the person whose name is subscribed to such instrument as the Attorney-in-Fact of said corporation, and acknowledged to me that he (she) subscribed the name of said corporation thereto as Surety, and his (her) own name as Attorney-in-Fact and that said corporation executed the same.

WITNESS MY HAND AND OFFICIAL SEAL:

(SEAL)

Notary Public for the State of California

Acknowledgement by Attorney-in-Fact must be attached.
Corporate seals of Principal and Surety must be attached.

STOP PAYMENT NOTICE INFORMATION

The following is furnished for the information of contractors, subcontractors and suppliers of labor, materials, equipment, and services under County contracts for public works of improvement and is not intended as legal advice. Advice of legal counsel should be obtained to ensure compliance with legal requirements relating to public works stop payment notices.

WHERE TO FILE: All original stop payment notices and 20-day preliminary notices (if required) must be filed with the County of Santa Clara, Clerk of the Board of Supervisors, located at 70 West Hedding Street, East Wing, 10th Floor, San Jose, California 95110.

STOP PAYMENT NOTICE CONTENTS: See Civil Code sections 8100 et seq. and 9352. Written notice, signed and verified by the claimant and including information such as the kind of labor, equipment, materials or services provided or agreed to be provided by the claimant; the name of the person/entity to or for whom the same was done or provided; the amount in value of that already done or provided and an estimate of the total amount to be provided.

WHO MAY SERVE STOP PAYMENT NOTICE: See Civil Code section 9100. All persons who have not been paid in full and who have provided work for a public works contract for a work of improvement, if the work is authorized by a direct contractor, subcontractor, architect, project manager, or other person having charge of all or part of the public works contract; laborers, and; persons described in Public Contract Code section 4107.7.

HOW THE STOP PAYMENT NOTICE IS SERVED: See Civil Code sections 8100 et seq. and 9354. Served by personal service, registered mail, or certified mail.

TIME FOR SERVICE: See Civil Code section 9356. Stop payment notices must be served before the expiration of: 30 days after recording of a Notice of Completion (also known as "Notice of Acceptance") or Notice of Cessation, if such notice is recorded. If no such notice is recorded, 90 days after actual completion or cessation.

NOTICE OF RECORDING: See Civil Code section 9362. Provided that a stop payment notice claimant has paid to the Clerk of the Board of Supervisors the sum of \$10.00 at the time of filing a stop notice, the County shall provide that claimant with notice of the filing of a Notice of Completion or Cessation, or completion by acceptance or cessation, by personal service, or registered or certified mail.

RELEASE OF STOP PAYMENT NOTICE: See Civil Code sections 8120 et seq., 9400 et seq., and 9364. A stop payment notice can be released if the original contractor files a corporate surety bond with the Clerk of the Board of Supervisors, in the amount of 125% of the stop notice claim. Alternatively, the original contractor may file an affidavit pursuant to Civil Code sections 9400 through 9402, stating objections to the validity of the stop payment notice. A counter-affidavit may be filed by the claimant pursuant to Civil Code section 9406, and a summary legal proceeding may be held pursuant to Civil Code section 9408 et seq., to determine the validity of the stop payment notice. If no counter-affidavit is filed, the stop payment notice funds shall be released. Alternatively, the stop payment notice claimant may file a release in a form which substantially complies with Civil Code sections 8132 through 8138.

STOP PAYMENT NOTICE LAWSUIT: See Civil Code sections 9500 through 9510. These sections provide that a stop payment notice is perfected only by the filing of a lawsuit. A lawsuit must be filed no sooner than 10 days after service of a stop notice, and no later than 90 days after the expiration of the time for filing stop payment notices. Notice of suit must be given to the Clerk of the Board of Supervisors within 5 days after commencement. The court has the discretionary right to dismiss the lawsuit if it is not brought to trial within 2 years.