

## CITY OF MENIFEE

### CONTRACT SERVICES AGREEMENT

#### CIP 13-04 BRADLEY ROAD BRIDGE OVER SALT CREEK

THIS CONTRACT SERVICES AGREEMENT (“Agreement”) is made and effective this \_\_\_\_\_ day of \_\_\_\_\_, 2025 by and between the CITY OF MENIFEE, a California municipal corporation, (“City”) and **AMES CONSTRUCTION, INC.** a California Corporation (“Contractor”). City and Contractor are sometimes hereinafter individually referred to as “Party” and hereinafter collectively referred to as the “Parties”.

City sought, by issuance of a Request for Proposals or Invitation for Bids, for the performance of the services defined and described particularly in this Agreement. Contractor, following submission of a proposal or bid for the performance of the services defined and described particularly in this Agreement, was selected by City to perform those services. Pursuant to the City of Menifee’s Municipal Code, City has authority to enter into this Agreement and the City Manager has authority to execute this Agreement. The Parties desire to formalize the selection of Contractor for performance of those services defined and described particularly in this Agreement and desire that the terms of that performance be as particularly defined and described herein.

#### SECTION 1. SERVICES.

1.1 Scope of Services. Subject to the terms and conditions set forth in this Agreement, Contractor shall provide to City the services described in the Scope of Services, attached hereto as Exhibit B, “Scope of Services” and incorporated herein by this reference (the “Services”). Contractor will perform subsequent task orders as requested by the Contract Administrator (as defined below), in accordance with the Scope of Services. The Scope of Services incorporates Contractor’s scope of work or bid for the Services. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit B, this Agreement shall prevail. The Services may be further set forth in the Special Provisions incorporated into Exhibit A, if any (the “Special Provisions”). In the event of a conflict in or inconsistency between the terms of this Agreement and the Special Provisions, the Special Provisions shall prevail.

1.2 Term of Services. The term of this Agreement shall begin on **May 7, 2025**. Unless earlier terminated in accordance with Section 8 of this Agreement, this Agreement shall continue in full force and effect until final written approval and acceptance of the work performed under this Agreement by the Contract Administrator. The time provided to Contractor to complete the Services required by this Agreement shall not affect City’s right to terminate this Agreement, as provided for in Section 8.

#### 1.3 Standard of Performance.

a. Quality of Work. As a material inducement to City entering into this Agreement, Contractor represents and warrants that it has the qualifications, experience, and facilities necessary to properly perform the Services required under this Agreement in a thorough, competent, and professional manner, and is experienced in performing the Services contemplated

herein. Contractor shall at all times faithfully, competently, and to the best of its ability, experience, and talent, perform all Services described herein. Contractor covenants that it shall follow the highest professional standards in performing the Services required hereunder and that all materials, parts, and equipment furnished by the Contractor in the performance of the Services shall be new, high grade, and free from defects. Used or secondhand materials, parts, and equipment may be used only if so specified in the Special Provisions. For purposes of this Agreement, the phrase "highest professional standards" shall mean those standards of practice recognized by one or more first-class firms performing similar work under similar circumstances, and to the sole satisfaction of the Contract Administrator.

b. Care of Work. Contractor shall adopt reasonable methods during the term of this Agreement to furnish continuous protection to the Services, and the equipment, materials, papers, documents, plans, studies, and/or other components thereof to prevent losses or damages, and shall be responsible for all such damages, to persons or property, until acceptance of the Services by City, except such losses or damages as may be caused by City's own negligence.

c. Safety. Contractor shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out the Services, Contractor shall at all times be in compliance with all applicable local, state, and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed. Safety precautions as applicable shall include, but shall not be limited to: (A) adequate life protection and life saving equipment and procedures; (B) instructions in accident prevention for all employees and subcontractors, such as safe walkways, scaffolds, fall protection ladders, bridges, gang planks, confined space procedures, trenching and shoring, equipment and other safety devices, equipment and wearing apparel as are necessary or lawfully required to prevent accidents or injuries; and (C) adequate facilities for the proper inspection and maintenance of all safety measures.

d. Warranty. Contractor warrants all work under this Agreement (which for purposes of this Subsection 1.3 shall be deemed to include unauthorized work which has not been removed and any non-conforming materials incorporated into the work) to be of good quality and free from any defective or faulty material and workmanship. Contractor agrees that for a period of one (1) year (or the period of time specified elsewhere in this Agreement or in any guarantee or warranty provided by any manufacturer or supplier of equipment or materials incorporated into the work, whichever is later) after the date of final acceptance, Contractor shall within ten (10) days after being notified in writing by City of any defect in the work or non-conformance of the work to this Agreement, commence and prosecute with due diligence all work necessary to fulfill the terms of the warranty at Contractor's sole cost and expense. Contractor shall act sooner as requested by City in response to an emergency. In addition, Contractor shall, at its sole cost and expense, repair and replace any portions of the work (or work of other contractors) damaged by Contractor's defective work or which becomes damaged in the course of repairing or replacing defective work. For any work so corrected, Contractor's obligation hereunder to correct defective work shall be reinstated for an additional one (1) year period, commencing with the date of acceptance of such corrected work. Contractor shall perform such tests as City may require to verify that any corrective actions, including, without limitation, redesign, repairs, and replacements comply with the requirements of this Agreement. All costs associated with such corrective actions and testing, including the removal, replacement, and reinstitution of equipment

and materials necessary to gain access, shall be the sole responsibility of Contractor. All warranties and guarantees of subcontractors, suppliers, and manufacturers with respect to any portion of the work, whether express or implied, are deemed to be obtained by Contractor for the benefit of City, regardless of whether or not such warranties and guarantees have been transferred or assigned to City by separate agreement and Contractor agrees to enforce such warranties and guarantees, if necessary, on behalf of City. In the event that Contractor fails to perform its obligations under this Section, or under any other warranty or guaranty under this Agreement, to the reasonable satisfaction of City, City shall have the right to correct and replace any defective or non-conforming work and any work damaged by such work or the replacement or correction thereof at Contractor's sole expense. Contractor shall be obligated to fully reimburse City for any expenses incurred hereunder upon demand.

e. Skilled and Trained Workforce. Contractor, for itself and its subcontractors at every tier, hereby provides an enforceable commitment to comply with California Public Contract Code section 2600 et seq., which requires use of a skilled and trained workforce to perform all work on the agreements that fall within an apprenticeable occupation in the building and construction trades.

f. Inspection and Final Acceptance. The Services shall be performed to the satisfaction of City. City may inspect and accept or reject any of Contractor's work under this Agreement, during performance and/or when completed. City shall accept work by a timely written acceptance, otherwise work shall be deemed to have been rejected. City's acceptance shall be conclusive as to such work except with respect to latent defects, fraud, and such gross mistakes as amount to fraud. Acceptance of any work by City shall not constitute a waiver of any of the provisions of this Agreement including, but not limited to, Section 4 and Section 5, pertaining to insurance and indemnification, respectively.

1.4 Assignment of Personnel. Contractor shall assign only competent personnel to perform the Services. Contractor shall make every reasonable effort to maintain the stability and continuity of Contractor's staff and subcontractors, if any, assigned to perform the Services. Contractor shall notify City of any changes in Contractor's staff and subcontractors, if any, assigned to perform the Services, prior to and during any such performance. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires the reassignment of any such persons, Contractor shall, immediately upon receiving notice from City of such desire of City, reassign such person or persons.

1.5 Time. Time is of the essence in the performance of this Agreement. Contractor shall devote such time to the performance of the Services pursuant to this Agreement as may be reasonably necessary to satisfy Contractor's obligations hereunder. Contractor shall commence the Services pursuant to this Agreement upon receipt of a written notice to proceed and shall perform all Services within the time period(s) established in the Scope of Services. When requested by Contractor, extensions to the time period(s) specified in the Scope of Services may be approved in writing by the Contract Administrator.

1.6 Force Majeure. The time period(s) specified in the Scope of Services for performance of the Services rendered pursuant to this Agreement shall be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of

Contractor, including, but not restricted to, acts of God or of the public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including City, if Contractor shall within ten (10) days of the commencement of such delay notify the Contract Administrator in writing of the causes of the delay. The Contract Administrator shall ascertain the facts and the extent of delay, and extend the time for performing the Services for the period of the enforced delay when and if in the sole judgment of the Contract Administrator such delay is justified. The Contract Administrator's determination shall be final and conclusive upon the Parties to this Agreement. In no event shall Contractor be entitled to recover damages against City for any delay in the performance of this Agreement, however caused, Contractor's sole remedy being extension of this Agreement pursuant to this Section.

1.7 Suspension of Services. The City Engineer of City ("Engineer") shall have the authority to suspend the Services, wholly or in part, for such period as the Engineer may deem necessary, due to unsuitable weather or to such other conditions as are considered unfavorable for the suitable prosecution of the Services, or for such time as the Engineer may deem necessary due to the failure on the part of Contractor to carry out orders given or to perform any provisions of the Services. Contractor shall immediately comply with the written order of the Engineer to suspend the Services wholly or in part and shall not resume the Services until ordered to do so in writing by the Engineer. Such suspension shall be without liability to Contractor on the part of City. In the event a suspension of work is ordered because of failure on the part of Contractor to carry out orders given or to perform any provisions of the Services, such suspension of the Services shall not relieve Contractor of responsibility to complete the Services within the time limit set forth herein and shall not be considered cause for extension of the time for completion and, further, such suspension of the Services shall not entitle Contractor to any additional compensation.

1.8 Familiarity with Work and Worksite. By executing this Agreement, Contractor warrants that Contractor (i) has thoroughly investigated and considered the Services, (ii) has carefully considered how the Services should be performed, and (iii) fully understands the facilities, difficulties, and restrictions attending performance of the Services. If the Services involve work upon any site, Contractor warrants that Contractor has or will investigate the site and is or will be fully acquainted with the conditions there existing, prior to commencement of the Services hereunder. Should Contractor discover any latent or unknown conditions, which will materially affect the performance of the Services hereunder, Contractor shall immediately inform City of such fact and shall not proceed until written instructions are received from the Contract Administrator.

1.9 Further Responsibilities of the Parties. Both Parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Both Parties agree to act in good faith to execute all instruments, prepare all documents, and take all actions as may be reasonably necessary to carry out the purposes of this Agreement. Unless otherwise specified in this Agreement, neither Party shall be responsible for the service of the other.

1.10 Special Provisions. Additional terms and conditions of this Agreement, if any, which are made a part hereof are set forth in the "Special Provisions" attached hereto as Exhibit A and incorporated herein by this reference. In the event of a conflict between the provisions of Exhibit A and any other provisions of this Agreement, the provisions of Exhibit A shall govern.

## SECTION 2. COMPENSATION.

2.1 Contract Amount. City hereby agrees to pay Contractor a sum not to exceed **SIXTEEN MILLION ONE HUNDRED FIFTY TWO THOUSAND FIVE HUNDRED EIGHTY ONE DOLLARS AND FIFTEEN CENTS (\$16,152,581.15)** notwithstanding any contrary indications that may be contained in Contractor's proposal or bid, for the Services to be performed and reimbursable costs incurred under this Agreement. This compensation may be administratively adjusted pursuant to Section 8.4 herein. In the event of a conflict between this Agreement and Exhibit B, regarding the amount of compensation, this Agreement shall prevail. City shall pay Contractor for the Services rendered pursuant to this Agreement at the time and in the manner set forth herein. The payments specified in this Section 2 shall be the only payments from City to Contractor for the Services rendered pursuant to this Agreement. Contractor shall submit all invoices to City in the manner specified herein.

2.2 Method of Compensation. The method of compensation may include: (i) a lump sum payment upon completion, (ii) payment in accordance with specified tasks or the percentage of completion of the Services, (iii) payment for time and materials based upon Contractor's rates as specified in the Scope of Services, provided that time estimates are provided for the performance of subtasks, or (iv) such other methods as may be specified in the Scope of Services. In no event shall compensation exceed the amount set forth in Subsection 2.1.

2.3 Invoices. Contractor shall submit invoices monthly during the term of this Agreement, based on the cost for the Services performed and reimbursable costs incurred prior to the invoice date. The invoice shall detail charges for all necessary and actual expenses by the following categories: labor (by sub-category), travel, materials, equipment, supplies, and subcontractor contracts. Subcontractor charges shall also be detailed by such categories. Invoices shall contain:

- a. Serial identifications of progress bills; i.e., Progress Bill No. 1 for the first invoice, etc.;
- b. The beginning and ending dates of the billing period;
- c. A "Task Summary" containing the original contract amount, the amount of prior billings, the total due this period, the balance available under this Agreement, and the percentage of completion;
- d. At City's option, for each item in each task, a copy of the applicable time entries or time sheets shall be submitted showing the name of the person performing the Services, the hours spent by each person, a brief description of the Services, and each reimbursable expense;
- e. The total number of hours of work performed under this Agreement by Contractor and each employee, agent, and subcontractor of Contractor performing the Services hereunder necessary to complete the Services described in Exhibit B;
- f. Receipts for expenses to be reimbursed;
- g. The Principals' signatures.

Invoices shall be submitted to:

City of Menifee  
Attn: Accounts Payable  
29844 Haun Road  
Menifee, CA 92586

2.4 City Payment of Invoices. City shall independently review each invoice submitted by Contractor to determine whether the work performed and expenses incurred are in compliance with the provisions of this Agreement. City will use its best efforts to cause Contractor to be paid within thirty (30) days of receipt of Contractor's correct and undisputed invoice. In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to Contractor for correction and resubmission. Pursuant to California Public Contract Code Section 20104.50, Contractor is notified that for public works Services, City's failure to pay undisputed and properly submitted invoices within thirty (30) days shall be subject to interest at the legal rate set forth in Code of Civil Procedure Section 685.010. Any invoice for public works Services determined not to be a proper invoice suitable for payment shall be returned to the Contractor as soon as practicable, but not later than seven (7) days, after receipt. An invoice returned pursuant to the foregoing shall be accompanied by a writing stating the reasons why the invoice is not proper.

2.5 Retention of Funds, Final Payment.

a. Contractor hereby authorizes City, in the sole discretion of the Contract Administrator, to retain and deduct from any amount payable to Contractor not exceeding five percent (5%) of the total compensation. The retained funds shall be paid to Contractor within sixty (60) days after final acceptance of the Services by the City and after Contractor has furnished City with full release of all undisputed payments under this Agreement. In the event there are any claims specifically excluded by Contractor from the operation of the release, City may retain proceeds of up to one hundred fifty percent (150%) of the amount in dispute. The failure of City to exercise such right to deduct or to withhold shall not, however, affect the obligations of Contractor to insure, indemnify, and protect City as provided in this Agreement.

b. Notwithstanding Paragraph a, California Public Contract Code Section 22300 permits the substitution of securities for any retention monies withheld by City for public works Services. At the request and expense of Contractor, securities equivalent to the monies withheld shall be deposited with City, or with a state or federally chartered bank in California as the escrow agent, who shall then pay such monies to Contractor. City retains the sole discretion to approve the bank selected by Contractor to serve as escrow agent. Upon satisfactory completion of the Services, the securities shall be returned to Contractor. Securities eligible for investment shall include those listed in Government Code Section 16430. Contractor shall be the beneficial owner of any securities substituted for monies withheld and shall receive any interest thereon. In the alternative, under California Public Contract Code Section 22300, Contractor may request City to make payment of earned retention monies directly to the escrow agent at the expense of Contractor. Also at Contractor's expense, Contractor may direct investment of the payments into securities, and Contractor shall receive interest earned on such investment upon the same conditions as provided for securities deposited by Contractor. Upon satisfactory completion of the

Services, Contractor shall receive from the escrow agent all securities, interest and payments received by escrow agent from City pursuant to the terms of California Public Contract Code Section 22300.

2.6 Total Payment. City shall not pay any additional sum for any expense or cost whatsoever incurred by Contractor in rendering the Services pursuant to this Agreement. City shall make no payment for any extra, further, or additional service pursuant to this Agreement. In no event shall Contractor submit any invoice for an amount in excess of the maximum amount of compensation provided above either for a task or for the entirety of the Services performed pursuant to this Agreement, unless this Agreement is modified in writing prior to the submission of such an invoice.

2.7 Hourly Fees. Fees for the Services performed by Contractor on an hourly basis shall not exceed the amounts shown on the fee schedule included with Exhibit B.

2.8 Reimbursable Expenses. Reimbursable expenses are included within the maximum amount of this Agreement. Reimbursable expenses not listed in Exhibit B must be approved in advance by the Contract Administrator, in his or her sole discretion. Contractor shall not be entitled to any additional compensation for the attendance of meetings reasonably deemed necessary by City for the execution of the Services.

2.9 Payment of Taxes. Contractor is solely responsible for the payment of employment taxes incurred under this Agreement and any federal or state taxes.

2.10 Payment upon Termination. In the event that City or Contractor terminates this Agreement pursuant to Section 8, City shall compensate Contractor for all outstanding costs and reimbursable expenses incurred for Services satisfactorily completed and for reimbursable expenses as of the date of written notice of termination. Contractor shall maintain adequate logs and timesheets in order to verify costs and reimbursable expenses incurred to that date.

2.11 No Waiver. Payment to Contractor for Services performed pursuant to this Agreement shall not be deemed to waive any defects in work performed by Contractor.

### **SECTION 3. FACILITIES AND EQUIPMENT.**

3.1 Contractor Provides Facilities and Equipment. Except as otherwise provided, Contractor shall, at its sole cost and expense, provide all facilities and equipment necessary to perform the services required by this Agreement. In no event shall City be required to furnish any facility or equipment that may involve incurring any direct expense.

3.2 Utility Relocation. Where applicable, pursuant to California Government Code Section 4215, City is responsible for removal, relocation, or protection of existing main or trunkline utilities to the extent such utilities were not identified in the invitation for bids or specifications. City shall reimburse Contractor for any costs incurred in locating, repairing damage not caused by Contractor, and removing or relocating such unidentified utility facilities. Contractor shall not be assessed liquidated damages for delay arising from the removal or relocation of such unidentified utility facilities.

3.3 Trenches or Excavations. Pursuant to California Public Contract Code Sections 6705 and 7104, in the event the work included in this Agreement requires excavations more than four (4) feet in depth, the following shall apply.

a. Contractor shall promptly, and before the following conditions are disturbed, notify City, in writing, of any: (1) material that Contractor believes may be material that is hazardous waste, as defined in Section 25117 of the Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law; (2) subsurface or latent physical conditions at the site different from those indicated by information about the site made available to bidders prior to the deadline for submitting bids; or (3) unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Agreement.

b. If the Services involve the excavation of any trench or trenches five (5) feet or more in depth, Contractor shall submit for acceptance by the City Engineer, in advance of excavation, a detailed plan showing the design of shoring, bracing, sloping, or other provisions to be made for worker protection from the hazard of caving ground during the excavation of such trench or trenches. If such plan varies from the shoring system standards, the plan shall be prepared by a registered civil or structural engineer.

c. City shall promptly investigate the conditions, and if it finds that the conditions do materially so differ, or do involve hazardous waste, and cause a decrease or increase in Contractor's cost of, or the time required for, performance of any part of the work shall issue an order or amendment for additional services pursuant to Subsection 8.4 or 8.5 of this Agreement.

d. If a dispute arises between City 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 scheduled completion date provided for by this Agreement, but shall proceed with all work to be performed under this Agreement. Contractor shall retain any and all rights provided either by contract or by law which pertain to the resolution of disputes and protests between the Parties.

#### **SECTION 4. INSURANCE AND BOND REQUIREMENTS.**

Before beginning any work under this Agreement, Contractor, at its own cost and expense, shall procure the types and amounts of insurance listed below and provide certified copies of insurance policies and original endorsements, indicating that Contractor has obtained or currently maintains insurance that meets the requirements of this Section and which is satisfactory, in all respects, to City. Contractor shall also deliver the payment and performance bonds required by this Section 4 with City. Contractor shall maintain the insurance policies required by this Section throughout the term of this Agreement. The cost of such insurance shall be included in Contractor's compensation. Contractor shall not allow any subcontractor, Contractor or other agent to commence work on any subcontract until Contractor has obtained all insurance required herein for the subcontractor(s) and provided evidence thereof to City, and has delivered the required bonds to City. Verification of the required insurance shall be submitted and made part of this Agreement prior to execution. Contractor acknowledges the insurance policy must cover inter-

insured suits between City and other insureds. Contractor agrees that the requirement to provide insurance shall not be construed as limiting in any way the extent to which Contractor may be held responsible for the payment of damages to any persons or property resulting from Contractor's activities or the activities of any person or persons for which Contractor is otherwise responsible nor shall it limit Contractor's indemnification liabilities as provided in Section 5. Insurance or bonds required by this Agreement shall be satisfactory only if issued by companies qualified to do business in California, rated "A" or better in the most recent edition of Best Rating Guide, The Key Rating Guide, or in the Federal Register, and only if they are of a financial category Class VII or better, unless such requirements are waived by the Contract Administrator in the Contract Administrator's sole discretion. If this Agreement continues for more than three (3) years duration, or in the event the Contract Administrator determines that the Services to be performed under this Agreement creates an increased or decreased risk of loss to City, Contractor agrees that the minimum limits of the insurance policies and the performance bond required by Section 4 may be changed accordingly upon receipt of written notice from the Contract Administrator; provided that Contractor shall have the right to appeal a determination of increased coverage by the Contract Administrator to the City Council of City within ten (10) days of receipt of notice from the Contract Administrator. Notwithstanding the forgoing, any provision of the Special Provisions shall replace and take precedence over any subsection of this Section 4 relating to insurance.

4.1 Workers' Compensation. Contractor shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Contractor pursuant to the provisions of the California Labor Code. Statutory Workers' Compensation Insurance and Employer's Liability Insurance shall be provided with limits of not less than ONE MILLION DOLLARS (\$1,000,000.00) per accident, ONE MILLION DOLLARS (\$1,000,000.00) disease per employee, and ONE MILLION DOLLARS (\$1,000,000.00) disease per policy. In the alternative, Contractor may rely on a self-insurance program to meet those requirements, but only if the program of self-insurance complies fully with the provisions of the California Labor Code. Determination of whether a self-insurance program meets the standards of the California Labor Code shall be solely in the discretion of the Contract Administrator. The insurer, if insurance is provided, or Contractor, if a program of self-insurance is provided, shall waive all rights of subrogation against City and its officers, officials, employees, and authorized volunteers for loss arising from the Services performed under this Agreement. Pursuant to California Labor Code Section 1860, Contractor is required to secure the payment of compensation to Contractor's employees. Pursuant to California Labor Code Section 1861, Contractor hereby submits to City the following:

I am aware of the provisions of Section 3700 of the California Labor Code 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.

Contractor Initial: \_\_\_\_\_

4.2 Commercial General and Automobile Liability Insurance.

a. General Requirements. Contractor, at its own cost and expense, shall maintain commercial general and automobile liability insurance for the term of this Agreement in

an amount not less than ONE MILLION DOLLARS (\$1,000,000.00) per occurrence, combined single limit coverage, for risks associated with the Services contemplated by this Agreement, TWO MILLION DOLLARS (\$2,000,000.00) general aggregate, and TWO MILLION DOLLARS (\$2,000,000.00) products/completed operations aggregate. If a Commercial General Liability Insurance or an Automobile Liability Insurance form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the Services to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from the Services contemplated under this Agreement, including the use of hired, owned, leased, and non-owned automobiles.

b. Minimum Scope of Coverage. Commercial general coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001. Automobile coverage shall be at least as broad as Insurance Services Office Automobile Liability form CA 0001 Code 2, 8, and 9 including “any auto” and endorsement CA 0025 or equivalent). No endorsement shall be attached limiting the coverage.

c. Additional Requirements. Each of the following shall be included in the insurance coverage or added as a certified endorsement to the policy:

(i) The insurance shall cover on an occurrence or an accident basis, and not on a claims-made basis.

(ii) The policy must cover inter-insured suits and include a “Separation of Insureds” or “severability” clause which treats each insured separately.

(iii) The insurance must be maintained for at least one (1) year following the completion of the Services or the expiration or termination of this Agreement.

(iv) Any failure of Contractor to comply with reporting provisions of the policy shall not affect coverage provided to City and its officers, employees, agents, and volunteers.

#### 4.3 Professional Liability Insurance.

a. General Requirements. Contractor, at its own expense, shall maintain professional liability insurance appropriate to Contractor’s profession. This coverage may be written on a “claims made” basis, and must include coverage for contractual liability. The professional liability insurance required by this Agreement must be endorsed to be applicable to claims based upon, arising out of, or related to the Services performed under this Agreement. The insurance must be maintained for at least five (5) consecutive years following the completion of the Services or the expiration or termination of this Agreement. During this additional five (5)-year period, Contractor shall annually and upon request of City submit written evidence of this continuous coverage.

b. Claims-Made Limitations. The following provisions shall apply if the professional liability coverage is written on a claims-made form:

(i) The retroactive date of the policy must be shown and must be no later than the commencement of the Services.

(ii) If coverage is canceled or not renewed and it is not replaced with another claims-made policy form with a retroactive date that precedes the Effective Date of this Agreement, Contractor must provide extended reporting coverage for a minimum of five (5) years after the expiration or termination of this Agreement or the completion of the Services. Such continuation coverage may be provided by one of the following: (1) renewal of the existing policy; (2) an extended reporting period endorsement; or (3) replacement insurance with a retroactive date no later than the commencement of the Services under this Agreement. City shall have the right to exercise, at Contractor's sole cost and expense, any extended reporting provisions of the policy, if Contractor cancels or does not renew the coverage.

(iii) A copy of the claim reporting requirements must be submitted to City prior to the commencement of the Services under this Agreement.

4.4 Pollution Liability Insurance. Contractor, at its own expense, shall maintain pollution liability insurance written on a per occurrence for bodily injury, personal injury and property damage. The policy of insurance shall be in an amount not less than ONE MILLION DOLLARS (\$1,000,000.00) per pollution incident and ONE MILLION DOLLARS (\$1,000,000.00) in the general aggregate. The policy shall apply to any incidents at or from any location on which Contractor performs the Services under this Agreement. The insurance must be maintained for at least one (1) year following the completion of Contractor's services or the expiration or termination of this Agreement.

#### 4.5 All Policies Requirements.

a. Verification of Coverage. Prior to beginning the Services under this Agreement, Contractor shall furnish City with certificates of insurance, additional insured endorsement or policy language granting additional insured status complete certified copies of all policies, including complete certified copies of all endorsements. All copies of policies and certified endorsements shall show the signature of a person authorized by that insurer to bind coverage on its behalf. The certificate of insurance must include the following reference: **CIP 13-04 BRADLEY ROAD BRIDGE OVER SALT CREEK**. The name and address for additional insured endorsements, certificates of insurance and notice of cancellation is: City of Menifee, 29844 Haun Road, Menifee, CA 92586. City must be endorsed as an additional insured for liability arising out of ongoing and completed operations by or on behalf of Contractor.

b. Notice of Reduction in or Cancellation of Coverage. Contractor shall provide written notice to City within ten (10) working days if: (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; or (3) the deductible or self insured retention is increased. In the event any of said policies of insurance are cancelled, Contractor shall, prior to the cancellation date, submit new evidence of insurance in conformance with this Section 4 to the Contract Administrator.

c. Additional Insured; Primary Insurance. City and its officers, employees, agents, and authorized volunteers shall be covered as additional insureds with respect to each of

the following: liability arising out of the Services performed by or on behalf of Contractor, including the insured's general supervision of Contractor; products and completed operations of Contractor, as applicable; premises owned, occupied, or used by Contractor; and automobiles owned, leased, or used by Contractor in the course of providing the Services pursuant to this Agreement. The coverage shall contain no special limitations on the scope of protection afforded to City or its officers, employees, agents, or authorized volunteers. The insurance provided to City as an additional insured must apply on a primary and non-contributory basis with respect to any insurance or self-insurance program maintained by City. Additional insured status shall continue for one (1) year after the expiration or termination of this Agreement or completion of the Services.

A certified endorsement must be attached to all policies stating that coverage is primary insurance with respect to City and its officers, officials, employees, and volunteers, and that no insurance or self-insurance maintained by City shall be called upon to contribute to a loss under the coverage. The insurer is deemed hereof to waive all rights of subrogation and contribution it may have against City, its officers, employees, agents, authorized volunteers, and their respective insurers.

d. Deductibles and Self-Insured Retentions. Contractor shall obtain the written approval of City for the self-insured retentions and deductibles before beginning any of the Services. During the term of this Agreement, only upon the prior express written authorization of the Contract Administrator, Contractor may increase such deductibles or self-insured retentions with respect to City, its officers, employees, agents, and volunteers. The Contract Administrator may condition approval of an increase in deductible or self-insured retention levels with a requirement that Contractor procure a bond guaranteeing payment of losses and related investigations, claim administration, and defense expenses that is satisfactory in all respects to each of them.

e. Subcontractors. Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and certified endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

f. Variation. The Contract Administrator may, but is not required to, approve in writing a variation in the foregoing insurance requirements, upon a determination that the coverage, scope, limits, and forms of such insurance are either not commercially available, or that City's interests are otherwise fully protected.

4.6 Payment and Performance Bonds. Concurrently with execution of this Agreement, Contractor shall deliver to City a payment (labor and materials) bond and a performance bond, each in the sum of the amount of this Agreement, in the forms provided by the City Clerk, which secure the faithful performance of this Agreement. The bonds shall contain the original notarized signature of an authorized officer of the surety and affixed thereto shall be a certified and current copy of his power of attorney. The bonds shall be unconditional and remain in force during the entire term of this Agreement and shall be null and void only if Contractor promptly and faithfully performs all terms and conditions of this Agreement. Payment and performance bonds shall be secured from a surety company rated Grade "A" or better in the most recent edition of Best Rating Guide, The Key Rating Guide, or in the Federal Register, and only if they are of a financial

category Class VII or better, unless such requirements are waived by the Contract Administrator due to unique circumstances, and shall be authorized to write such bonds in the State of California. Contractor shall pay all bond premiums, costs, and incidentals. Pursuant to California Public Contract Code Section 22300, substitution of eligible equivalent securities for any moneys withheld to ensure performance under this Agreement may be permitted at the request and expense of Contractor. Without limiting the foregoing, Contractor understands that Civil Code Section 9550 requires a payment bond for all public works contracts involving an expenditure of more than Twenty-Five Thousand Dollars (\$25,000).

4.7 Remedies. In addition to any other remedies at law or equity City may have if Contractor fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option, exercise any of the following remedies, which are alternatives to other remedies City may have and are not the exclusive remedy for Contractor's breach:

- a. Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under this Agreement;
- b. Order Contractor to stop work under this Agreement or withhold any payment that becomes due to Contractor hereunder, or both stop work and withhold any payment, until Contractor demonstrates compliance with the requirements hereof; and/or
- c. Terminate this Agreement.

## **SECTION 5. INDEMNIFICATION.**

5.1 Indemnification for Professional Liability. Where the law establishes a professional standard of care for performance of the Services, to the fullest extent permitted by law, Contractor shall indemnify, protect, defend (with counsel selected by City), and hold harmless City and any and all of its officers, employees, officials, volunteers, and agents from and against any and all claims, losses, costs, damages, expenses, liabilities, liens, actions, causes of action (whether in tort, contract, under statute, at law, in equity, or otherwise) charges, awards, assessments, fines, or penalties of any kind (including costs and expenses incurred by City and reasonable consultant and expert fees and expenses of investigation, costs of whatever kind and nature and, if Contractor fails to provide a defense for City, the legal costs of counsel retained by City) and any judgment (collectively, "Claims") to the extent same are caused in whole or in part by any negligent or wrongful act, error, or omission of Contractor, its officers, agents, employees, or subcontractors (or any entity or individual that Contractor shall bear the legal liability thereof) in the performance of professional services under this Agreement.

5.2 Indemnification for Other than Professional Liability. Other than in the performance of professional services and to the full extent permitted by law, Contractor shall indemnify, protect, defend (with counsel selected by City), and hold harmless City, and any and all of its officers, employees, officials, volunteers, and agents from and against any and all Claims, where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the performance of this Agreement by Contractor or by any individual or entity for which Contractor is legally liable, including but not limited to officers, agents, employees or

subcontractors of Contractor. Contractor will promptly pay any judgment rendered against City, its officers, agents, or employees for any such Claims arising out of or in connection with the performance of or failure to perform such Services, operations or activities of Contractor hereunder.

5.3 Subcontractors. Contractor shall incorporate similar indemnity agreements with its subcontractors. Contractor shall be fully responsible to indemnify City, and failure of City to monitor compliance with these provisions shall not be a waiver hereof.

5.4 Limitation of Indemnification. The provisions of this Section 5 do not apply to claims occurring as a result of City's sole or active negligence. The provisions of this Section 5 shall not release City from liability arising from gross negligence or willful acts or omissions of City or any and all of its officers, officials, employees, and agents acting in an official capacity. In the event any applicable law contains a limitation on indemnification under this Agreement, such limitation shall supersede the provisions herein only to the extent required by said law.

## **SECTION 6. INDEPENDENT CONTRACTOR.**

At all times during the term of this Agreement, Contractor shall be an independent contractor and shall not be an employee of City. City shall have the right to control Contractor only insofar as the results of the Services rendered pursuant to this Agreement and assignment of personnel pursuant to Subsection 1.4; however, otherwise City shall not have the right to control the means by which Contractor accomplishes the Services rendered pursuant to this Agreement. The personnel performing the Services under this Agreement on behalf of Contractor shall at all times be under Contractor's exclusive direction and control. Contractor shall not at any time or in any manner represent that it is or any of its officers, employees, or agents are in any manner officers, officials, employees, or agents of City. Contractor shall not incur or have the power to incur any debt, obligation, or liability whatever against City, or bind City in any manner. Except for the fees paid to Contractor as provided in this Agreement, City shall not pay salaries, wages, or other compensation to Contractor for performing the Services hereunder for City. City shall not be liable for compensation or indemnification to Contractor for injury or sickness arising out of performing the Services hereunder. Notwithstanding any other City, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Contractor and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in the California Public Employees Retirement System ("PERS") as an employee of City and entitlement to any contribution to be paid by City for employer contributions and/or employee contributions for PERS benefits. Contractor shall perform all Services required herein as an independent contractor of City and shall remain at all times as to City a wholly independent contractor with only such obligations as are consistent with that role. City shall not in any way or for any purpose become or be deemed to be a partner of Contractor in its business or otherwise or a joint venturer or a member of any joint enterprise with Contractor.

## **SECTION 7. LEGAL REQUIREMENTS.**

7.1 Governing Law. The laws of the State of California shall govern this Agreement.

7.2 Compliance with Applicable Laws. Contractor and any subcontractor shall comply with all applicable local, state, and federal laws and regulations applicable to the performance of the work hereunder. Contractor shall not hire or employ any person to perform work within City or allow any person to perform the Services required under this Agreement unless such person is properly documented and legally entitled to be employed within the United States. Contractor acknowledges and agrees that it shall be independently responsible for reviewing the applicable laws and regulations and effectuating compliance with such laws. Contractor shall require the same of all subcontractors.

7.3 Prevailing Wages. Contractor acknowledges and agrees that it shall be independently responsible for reviewing the applicable prevailing wage laws and regulations and effectuating compliance with such laws, including, but not limited to the prevailing wage and related requirements set forth in this Subsection 7.3. Contractor shall bear all risks of payment or non-payment of prevailing wages under California law and/or the implementation of California Labor Code Section 1781, as the same may be amended from time to time, and/or any other similar law.

a. Public Work. Contractor hereby expressly acknowledges and agrees that City has never previously affirmatively represented to Contractor, its employees or agents in writing or otherwise that the Services are not a “public work,” as defined in Section 1720 of the California Labor Code. It is agreed by the Parties that, in connection with the development, construction (as defined by applicable law) and operation of the Services, including, without limitation, any public work (as defined by applicable law), if any, Contractor shall bear all risks of payment or non-payment of state and/or federal prevailing wages and/or the implementation of California Labor Code Sections 1726 and 1781, as the same may be enacted, adopted or amended from time to time, and/or any other provision of law. To the extent applicable, City will enforce all penalties required by law for Contractor’s failure to pay prevailing wages.

b. California Labor Code. The Contractor’s attention is directed to Division 2, Part 7, Chapter 1 of the California Labor Code and especially to Article 2 (Wages); and Article 3 (Working Hours), thereof.

(i) In accordance with Sections 1773 and 1773.2 of the California Labor Code, City has found and determined the general prevailing rates of wages in the locality in which the public work is to be performed are those determined by the Director of Industrial Relations and available at <https://www.dir.ca.gov/OPRL/2022-1/PWD/Southern.html>. Copies of the prevailing rates of wages are maintained with City’s principal office and are available to any interested party on request. Contractor shall post a copy of the prevailing rate of per diem wages at each job site.

(ii) Contractor is aware of and will comply with the provisions of California Labor Code Section 1776, including the keeping of payroll records and furnishing certified copies thereof in accordance with said Section. Pursuant to California Labor Code Section 1771.4, Contractor must submit certified payroll records to the Labor Commissioner using the Department of Industrial Relations’ electronic certified payroll reporting (eCPR) system.

(iii) Pursuant to California Labor Code Section 1810, it is stipulated hereby that eight (8) hours labor constitutes a legal day's work hereunder.

(iv) Pursuant to California Labor Code Section 1815, work performed by employees of contractors in excess of eight (8) hours per day, and 40 hours during any one week, shall be permitted upon public work upon compensation for all hours worked in excess of eight (8) hours per day at not less than 1 ½ times the basic rate of pay.

(v) Pursuant to California Labor Code Section 1813, it is stipulated hereby that Contractor shall, as a penalty to City, forfeit twenty-five dollars (\$25) for each worker employed in the execution of this Agreement by Contractor or by any subcontractor hereunder for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one (1) calendar week in violation of the provisions of Article 3 (commencing with Section 1810), Chapter 1, Part 7, Division 2 of the California Labor Code.

(vi) Contractor is aware of and will comply with the provisions of California Labor Code Sections 1777.5 and 1777.6 with respect to the employment of apprentices. Pursuant to Section 1777.5 it is hereby stipulated that Contractor will be responsible for obtaining compliance therewith on the part of any and all sub-consultants or subcontractors employed by Contractor in connection with this Agreement.

(vii) Pursuant to California Labor Code Section 1775, it is hereby stipulated that Contractor shall, as a penalty to City, forfeit not more than two-hundred dollars (\$200) for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of Industrial Relations for the work or craft in which the worker is employed for the Services by Contractor or any sub-consultant or subcontractor.

c. Bidding Eligibility. Pursuant to California Labor Code Section 1771.1, no contractor or subcontractor (or consultant or subconsultant) may be listed on a bid proposal for a public works project unless registered with the Department of Industrial Relations. Pursuant to California Public Contract Code Section 6109, Contractor may not perform any Services hereunder with a subcontractor who is ineligible to perform the Services pursuant to Section 1777.1 or 1777.7 of the California Labor Code.

d. DIR Monitoring. Pursuant to California Labor Code Section 1771.4, Contractor is hereby notified that this project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

e. Indemnification Related to Prevailing Wages. Section 5, Indemnification, specifically encompasses Claims arising from or related to (i) the noncompliance by Contractor or any party performing the Services of any applicable local, state, and/or federal law, including, without limitation, any applicable federal and/or state labor laws (including, without limitation, the requirement to pay state prevailing wages and hire apprentices); (ii) the implementation of California Labor Code Sections 1726 and 1781, as the same may be amended from time to time, or any other similar law; and/or (iii) failure by Contractor or any party performing the Services to

provide any required disclosure or identification as required by California Labor Code Section 1781, as the same may be amended from time to time, and/or any other similar law.

7.4 Licenses and Permits, Fees, and Assessments. Contractor represents, warrants, and covenants to City that Contractor and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to practice their respective professions, and perform the Services. Contractor represents, warrants, and covenants to City that Contractor and its employees, agents, and subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to practice their respective professions, and perform the Services. In addition to the foregoing, Contractor and any subcontractors shall obtain and maintain during the term of this Agreement valid business licenses from City. Contractor shall have the sole obligation to pay for any fees, assessments, and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for Contractor's performance of the Services, and shall indemnify, defend and hold harmless City, its officers, employees or agents of City, against any such fees, assessments, taxes, penalties or interest levied, assessed, or imposed against City hereunder.

7.5 Conflicts of Interest. Contractor represents, warrants, and covenants that Contractor presently has no interest, direct or indirect, which would interfere with or impair in any manner or degree the performance of Contractor's obligations and responsibilities under this Agreement. Contractor further agrees that while this Agreement is in effect, Contractor shall not acquire or otherwise obtain any interest, direct or indirect, that would interfere with or impair in any manner or degree the performance of Contractor's obligations and responsibilities under this Agreement.

7.6 Unfair Business Practices Claims. In entering into this Agreement, Contractor offers and agrees to assign to City all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. § 15) or under the Cartwright Act (Chapter 2, (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials related to this Agreement. This assignment shall be made and become effective at the time City renders final payment to Contractor without further acknowledgment of the Parties.

7.7 Annual Appropriation of Funding. In accord with Article 16 Section 18 of the California Constitution, payment of compensation under this Agreement is contingent upon annual appropriation of funds by City for that purpose. Contractor acknowledges and agrees that to the extent that the Services extend beyond one (1) fiscal year, payment for such Services is expressly conditioned on City's annual appropriation of funds for such Services for each year. If no funds are appropriated then this Agreement shall be terminated. City pledges and agrees to process such appropriation requests annually and in good faith. Nothing in this Subsection shall be construed to limit the right of either Party to terminate this Agreement as provided herein.

7.8 Liquidated Damages. Since the determination of actual damages for any delay in performance of this Agreement would be extremely difficult or impractical to determine in the event of a breach of this Agreement, Contractor and its sureties shall be liable for and shall pay to City as liquidated damages the amount set forth in the Special Provisions, or if no amount is set

forth therein, the sum of FIVE HUNDRED DOLLARS (\$500.00), for each working day of delay in the performance of any of the Services. City may withhold from any monies payable on account of the Services performed by Contractor any accrued liquidated damages.

## **SECTION 8. TERMINATION AND MODIFICATION.**

8.1 Termination. City may terminate this Agreement at any time and without cause upon thirty (30) days' written notification to Contractor. City may also terminate this Agreement pursuant to Subsection 8.8.

8.2 Termination by Contractor. Contractor may terminate this Agreement upon sixty (60) days' written notice to City.

8.3 Consequences of Termination. In the event of termination, Contractor shall be entitled to compensation for the Services satisfactorily performed up to the date of termination; City, however, may condition payment of such compensation upon Contractor delivering to City any or all materials provided to Contractor or prepared by or for Contractor or City in connection with this Agreement. Upon receipt of any notice of termination, Contractor shall immediately cease all Services hereunder except such as may be specifically approved by the Contract Administrator.

8.4 Administrative Change Orders. City shall have the right at any time during the performance of the Services, without invalidating this Agreement, to order extra work beyond that specified in the Scope of Services or make changes by altering, adding to, or deducting from said work. No such extra work may be undertaken unless a written change order is first given by the Contract Administrator to Contractor, incorporating therein any adjustment in (i) the total compensation, and/or (ii) the time to perform this Agreement, which said adjustments are subject to the written approval of Contractor. Any increase in compensation of up to five percent (5%) of the total compensation or TWENTY-FIVE THOUSAND DOLLARS (\$25,000), whichever is less; or in the time to perform of up to one hundred eighty (180) days may be approved in writing by the Contract Administrator. Contractor understands and agrees that, if City grants an extension in time without additional work, City shall have no obligation to provide Contractor with compensation beyond the maximum amount provided for in this Agreement. Similarly, unless authorized by the Contract Administrator, City shall have no obligation to reimburse Contractor for any otherwise reimbursable expenses incurred during the extension period. All other extensions or modifications to this Agreement shall require a written amendment pursuant to Subsection 8.5.

8.5 Amendments. The Parties may amend this Agreement only by a writing signed by all the Parties. The Contract Administrator shall have the authority to execute amendments to this Agreement which do not materially change the terms hereof, in the Contract Administrator's discretion, to the extent permitted by applicable federal, state, and local law. The Contract Administrator may refer any proposed amendment to the City Council for review and approval.

8.6 Assignment and Subcontracting. City and Contractor recognize and agree that this Agreement contemplates personal performance by Contractor and is based upon a determination of Contractor's unique personal competence, experience, and specialized personal knowledge.

Moreover, a substantial inducement to City for entering into this Agreement was and is the professional reputation and competence of Contractor. Contractor may not assign this Agreement or any interest therein without the prior written approval of the Contract Administrator. Contractor shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors noted in the Scope of Services, without prior written approval of the Contract Administrator. In the event of any unapproved assignment, including in connection with any bankruptcy proceeding, this Agreement shall be void. No approved assignment shall release Contractor or any surety of Contractor of any liability hereunder without the express consent of City.

8.7 Survival. All obligations arising prior to the expiration or termination of this Agreement and all provisions of this Agreement allocating liability between City and Contractor shall survive the expiration or termination of this Agreement.

8.8 Disputes, Default. In the event that Contractor is in default under the terms of this Agreement, City shall not have any obligation or duty to continue compensating Contractor for any of the Services performed after the date of default. Instead, City may give notice to Contractor of the default and the reasons for the default. The notice shall include the timeframe in which Contractor may cure the default. This timeframe is presumptively thirty (30) days, but may be extended, though not reduced, in the sole discretion of the Contract Administrator. During the period of time that Contractor is in default, City shall hold all invoices and shall, when the default is cured, proceed with payment on the invoices. In the alternative, City may, in its sole discretion, elect to pay some or all of the outstanding invoices during the period of default. If Contractor does not cure the default, City's remedies shall include, but not be limited to, any or all of the following:

- a. Immediately terminate this Agreement;
- b. Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Contractor pursuant to this Agreement;
- c. Retain a different contractor to complete the Services; and/or
- d. Charge Contractor the difference between the cost to complete the Services that is unfinished at the time of breach and the amount that City would have paid Contractor pursuant to Section 2 if Contractor had completed the Services.

Any failure on the part of City to give notice of Contractor's default shall not be deemed to result in a waiver of City's legal rights or any rights arising out of any provision of this Agreement.

8.9 Claims by Contractor. Claims, as that term is defined in California Public Contract Code Section 9204, by Contractor and, where applicable, any subcontractor, in connection with a public works project shall be subject to the mediation procedure in California Public Contract Code Section 9204.

## **SECTION 9. KEEPING AND STATUS OF RECORDS.**

9.1 Documents and Data. All drawings, specifications, maps, designs, photographs, studies, surveys, data, notes, computer files, reports, records, documents, and other materials plans, drawings, estimates, test data, survey results, models, renderings, and other documents or works of authorship fixed in any tangible medium of expression, including but not limited to, physical drawings, digital renderings, or data stored digitally, magnetically, or in any other medium (the “Documents and Materials”) prepared or caused to be prepared by Contractor, its employees, subcontractors, and agents in the performance of this Agreement shall be the property of City and shall be delivered to City upon request of the Contract Administrator or upon the expiration or termination of this Agreement, and Contractor shall have no claim for further employment or additional compensation as a result of the exercise by City of its full rights of ownership use, reuse, or assignment of the Documents and Materials hereunder. Any use, reuse or assignment of such completed Documents and Materials for other projects and/or use of uncompleted documents without specific written authorization by Contractor will be at City’s sole risk and without liability to Contractor, and Contractor’s guarantee and warranties shall not extend to such use, revise, or assignment. Contractor may retain copies of such Documents and Materials for its own use. Contractor shall have an unrestricted right to use the concepts embodied therein. All subcontractors shall provide for assignment to City of any Documents and Materials prepared by them, and in the event Contractor fails to secure such assignment, Contractor shall indemnify City for all damages resulting therefrom. Notwithstanding the forgoing, Contractor is also responsible for complying with the provisions Special Provisions related to Documents and Materials.

9.2 Licensing of Intellectual Property. This Agreement creates a non-exclusive and perpetual license for City to copy, use, modify, reuse, or sublicense any and all copyrights, designs, rights of reproduction, and other intellectual property embodied in the Documents and Materials. Contractor shall require all subcontractors to agree in writing that City is granted a non-exclusive and perpetual license for the Documents and Materials the subcontractor prepares under this Agreement. Contractor represents and warrants that Contractor has the legal right to license any and all of the Documents and Materials. Contractor makes no such representation and warranty in regard to the Documents and Materials which were prepared by design professionals other than Contractor or provided to Contractor by City. City shall not be limited in any way in its use of the Documents and Materials at any time, provided that any such use not within the purposes intended by this Agreement shall be at City’s sole risk.

9.3 Records. Contractor shall keep, and require subcontractors to keep, such ledgers books of accounts, invoices, vouchers, canceled checks, reports (including but not limited to payroll reports), studies, or other documents relating to the disbursements charged to City and the Services performed hereunder (the “Books and Records”), as shall be necessary to perform the Services required by this Agreement and enable the Contract Administrator to evaluate the performance of such Services. Any and all such Books and Records shall be maintained in accordance with generally accepted accounting principles and shall be complete and detailed. The Contract Administrator shall have full and free access to such Books and Records at all times during normal business hours of City, including the right to inspect, copy, audit, and make records and transcripts from such Books and Records. Such Books and Records shall be maintained for a period of three (3) years following completion of the Services hereunder, and City shall have access to such Books and Records in the event any audit is required. In the event of dissolution of

Contractor's business, custody of the Books and Records may be given to City, and access shall be provided by Contractor's successor in interest. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds TEN THOUSAND DOLLARS (\$10,000.00), this Agreement shall be subject to the examination and audit of the State Auditor, at the request of City or as part of any audit of City, for a period of three (3) years after final payment under this Agreement.

9.4 Reports. Contractor shall periodically prepare and submit to the Contract Administrator such reports concerning the performance of the Services required by this Agreement as the Contract Administrator shall require. Contractor hereby acknowledges that City is greatly concerned about the cost of the Services to be performed pursuant to this Agreement. For this reason, Contractor agrees that if Contractor becomes aware of any facts, circumstances, techniques, or events that may or will materially increase or decrease the cost of the Services contemplated herein or, if Contractor is providing design services, the cost of the project being designed, Contractor shall promptly notify the Contract Administrator of said fact, circumstance, technique, or event and the estimated increased or decreased cost related thereto and, if Contractor is providing design services, the estimated increased or decreased cost estimate for the project being designed. Any and all reports prepared pursuant to this Subsection are in addition to the reports required by the Special Provisions, if any.

9.5 Confidentiality. City and Contractor agree that, until final approval by City, all data, plans, specifications, reports, and other documents are confidential and will not be released to third parties without prior written consent of both Parties unless required by law. Contractor, its officers, employees, agents, or subcontractors, shall not, without prior written authorization from the Contract Administrator or unless requested by the City Attorney, voluntarily provide documents, declarations, letters of support, testimony at depositions, response to interrogatories, or other information concerning the work performed under this Agreement. If Contractor, or any officer, employee, agent, or subcontractor of Contractor, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Contractor for any Claims caused by or incurred as a result of Contractor's conduct. Contractor shall promptly notify City should Contractor, its officers, employees, agents, or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions, or other discovery request, court order, or subpoena from any party regarding this Agreement and the Services performed thereunder. City retains the right, but has no obligation, to represent Contractor or be present at any deposition, hearing, or similar proceeding. Contractor agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Contractor. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response. Response to a subpoena or court order shall not be considered a voluntary disclosure so long as Contractor gives City notice of such court order or subpoena as provided herein.

## **SECTION 10. MISCELLANEOUS PROVISIONS.**

10.1 Attorneys' Fees. If either Party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing Party shall be entitled to reasonable attorneys' fees and expenses including costs, in addition to

any other relief to which that Party may be entitled; provided, however, that the attorneys' fees awarded pursuant to this Subsection shall not exceed the hourly rate paid by City for legal services multiplied by the reasonable number of hours spent by the prevailing Party in the conduct of the litigation. The court may set such fees in the same action or in a separate action brought for that purpose.

10.2 Applicable Law, Venue. The laws of the State of California shall govern this Agreement. In the event that either Party brings any action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in Riverside County.

10.3 Severability. If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.

10.4 Section Headings and Subheadings. The section headings and subheadings contained in this Agreement are included for convenience only and shall not limit or otherwise affect the terms of this Agreement.

10.5 No Implied Waiver of Breach. Waiver by any Party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any Party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any work or services by Contractor shall not constitute a waiver of any of the provisions of this Agreement. No delay or omission in the exercise of any right or remedy by a non-defaulting Party on any default shall impair such right or remedy or be construed as a waiver. Any waiver by either Party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

10.6 Successors and Assigns. The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the Parties.

10.7 Contractor Principals and Representatives. The following principals of Contractor ("Principals") are hereby designated as being the principals and representatives of Contractor authorized to act in its behalf with respect to the work specified herein and make all decisions in connection therewith:

_____ (Name)	_____ (Title)
_____ (Name)	_____ (Title)
_____ (Name)	_____ (Title)

It is expressly understood that the experience, knowledge, capability, and reputation of the Principals were a substantial inducement for City to enter into this Agreement. Therefore, the

Principals shall be responsible during the term of this Agreement for directing all activities of Contractor and devoting sufficient time to personally supervise the Services hereunder. All personnel of Contractor, and any authorized agents, shall at all times be under the exclusive direction and control of the Principals. For purposes of this Agreement, the Principals may not be replaced nor may their responsibilities be substantially reduced by Contractor without the express written approval of City.

10.8 City Contract Administration. This Agreement shall be administered by a City employee, **Carlos Geronimo, Engineering Manager** ("Contract Administrator"). All correspondence shall be directed to or through the Contract Administrator or his designee. It shall be Contractor's responsibility to assure that the Contract Administrator is kept informed of the progress of the performance of the Services and Contractor shall refer any decisions which must be made by City to the Contract Administrator. Unless otherwise provided by applicable law, the Contract Administrator shall have the power to act on behalf of City for all purposes under this Agreement. Unless otherwise provided in this Agreement, Contractor shall not accept direction or orders from any person other than the Contract Administrator or his designee.

10.9 Notices. Any written notice to Contractor shall be sent to:

Ames Construction, Inc  
Attn: Jerome Ouimet, President & Chief Executive Officer  
391 N. Main Street Suite 302  
Corona, CA 92880

Any written notice to City shall be sent to the Contract Administrator at:

City of Menifee  
29844 Haun Road  
Menifee, CA 92586  
Attn: Carlos Geronimo, Engineering Manager

with a copy to:

City Clerk  
City of Menifee  
29844 Haun Road  
Menifee, CA 92586

Any notice, demand, request, document, consent, approval, or communication either Party desires or is required to give to the other Party or any other person shall be in writing and either served personally or sent by prepaid, first-class mail. Either Party may change its address by notifying the other Party of the change of address in writing. Notice shall be deemed communicated at the time personally delivered or in seventy-two (72) hours from the time of mailing if mailed as provided in this Section.

10.10 Rights and Remedies. Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the Parties are cumulative

and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other Party.

10.11 Integration, Interpretation. This Agreement, including Exhibits A and B, represents the entire and integrated agreement between City and Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral. The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either Party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

10.12 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

10.13 Execution of Contract. The persons executing this Agreement on behalf of each of the Parties hereto represent and warrant that (i) such Party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said Party, (iii) by so executing this Agreement, such Party is formally bound to the provisions of this Agreement, and (iv) that entering into this Agreement does not violate any provision of any other agreement to which said Party is bound.

10.14 Nondiscrimination. Contractor covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that in the performance of this Agreement there shall be no discrimination against or segregation of, any person or group of persons on account of any impermissible classification including, but not limited to, race, color, creed, religion, sex, marital status, sexual orientation, national origin, or ancestry. Contractor shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, sex, marital status, sexual orientation, national origin, or ancestry.

10.15 No Third Party Beneficiaries. There are no intended third-party beneficiaries under this Agreement and no such other third parties shall have any rights or obligations hereunder.

10.16 Nonliability of City Officers and Employees. No officer, official, employee, agent, representative, or volunteer of City shall be personally liable to Contractor, or any successor in interest, in the event of any default or breach by City or for any amount which may become due to Contractor or to its successor, or for breach of any obligation of the terms of this Agreement.

10.17 No Undue Influence. Contractor declares and warrants that no undue influence or pressure is used against or in concert with any officer or employee of City in connection with the award, terms or implementation of this Agreement, including any method of coercion, confidential financial arrangement, or financial inducement. No officer or employee of City shall receive compensation, directly or indirectly, from Contractor, or from any officer, employee, or agent of Contractor, in connection with the award of this Agreement or any work to be conducted as a result of this Agreement.

10.18 No Benefit to Arise to City Employees. No member, officer, or employee of City, or their designees or agents, and no public official who exercises authority over or has

responsibilities with respect to this Agreement during his/her tenure or for one (1) year thereafter, shall have any interest, direct or indirect, in any agreement or sub-agreement, or the proceeds thereof, for the Services to be performed under this Agreement.

[Signatures on Following Page]

IN WITNESS WHEREOF, the Parties hereto have executed and entered into this Agreement as of the Effective Date.

**CITY OF MENIFEE**

**CONTRACTOR**

\_\_\_\_\_  
Armando G. Villa, City Manager

\_\_\_\_\_  
Jerome Ouimet, President & Chief Executive Officer

Attest:

\_\_\_\_\_  
Stephanie Roseen, City Clerk

\_\_\_\_\_  
Thomas W. Bessel, Chief Financial Officer

Approved as to Form:

\_\_\_\_\_  
Jeffrey T. Melching, City Attorney

[Note: 2 officer's signatures required if Contractor is a corporation, unless provided with a certificate of secretary in-lieu]

## **EXHIBIT A**

### **SPECIAL PROVISIONS**

Appendix 2A, which contains required contract provisions for federal-aid construction contracts, is attached hereto and incorporated herein by this reference.



## APPENDIX 2A

FHWA-1273 – Revised October 23, 2023

### REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONSTRUCTION CONTRACTS

- I. General
- II. Nondiscrimination
- III. Non-segregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion
- XI. Certification Regarding Use of Contract Funds for Lobbying
- XII. Use of United States-Flag Vessels:

#### ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

#### I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under title 23, United States Code, as required in 23 CFR 633.102(b) (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services). 23 CFR 633.102(e).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider. 23 CFR 633.102(e).

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services) in accordance with 23 CFR 633.102. The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in solicitation-for-bids or request-for-proposals documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract). 23 CFR 633.102(b).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work

performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract. 23 CFR 633.102(d).

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. 23 U.S.C. 114(b). The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors. 23 U.S.C. 101(a).

#### II. NONDISCRIMINATION (23 CFR 230.107(a); 23 CFR Part 230, Subpart A, Appendix A; EO 11246)

The provisions of this section related to 23 CFR Part 230, Subpart A, Appendix A are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR Part 60, 29 CFR Parts 1625-1627, 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR Part 60, and 29 CFR Parts 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR Part 230, Subpart A, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

**1. Equal Employment Opportunity:** Equal Employment Opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (see 28 CFR Part 35, 29 CFR Part 1630, 29 CFR Parts 1625-1627, 41 CFR Part 60 and 49 CFR Part 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140, shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR Part 35 and 29 CFR Part 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract. 23 CFR 230.409 (g)(4) & (5).

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, sexual orientation, gender identity, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

**2. EEO Officer:** The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

**3. Dissemination of Policy:** All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action or are substantially involved in such action, will be made fully cognizant of and will implement the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer or other knowledgeable company official.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

**4. Recruitment:** When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

**5. Personnel Actions:** Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to ensure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action.

within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

**6. Training and Promotion:**

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs (i.e., apprenticeship and on-the-job training programs for the geographical area of contract performance). In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

**7. Unions:** If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. 23 CFR 230.409. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide

sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

**8. Reasonable Accommodation for Applicants / Employees with Disabilities:** The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established thereunder. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

**9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment:** The contractor shall not discriminate on the grounds of race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors, suppliers, and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

**10. Assurances Required:**

a. The requirements of 49 CFR Part 26 and the State DOT's FHWA-approved Disadvantaged Business Enterprise (DBE) program are incorporated by reference.

b. The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying the contractor from future bidding as non-responsible.

c. The Title VI and nondiscrimination provisions of U.S. DOT Order 1050.2A at Appendixes A and E are incorporated by reference. 49 CFR Part 21.

**11. Records and Reports:** The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women.

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on [Form FHWA-1391](#). The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

### III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of more than \$10,000. 41 CFR 60-1.5.

As prescribed by 41 CFR 60-1.8, the contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location under the contractor's control where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

### IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size), in accordance with 29 CFR 5.5. The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. 23 U.S.C. 113. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. 23 U.S.C. 101. Where applicable law requires that projects be treated as a project on a Federal-aid highway, the provisions of this subpart will apply regardless of the location of the project. Examples include: Surface Transportation Block Grant Program projects funded under 23 U.S.C. 133 [excluding recreational trails projects], the Nationally Significant Freight and Highway

Projects funded under 23 U.S.C. 117, and National Highway Freight Program projects funded under 23 U.S.C. 167.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

#### 1. Minimum wages (29 CFR 5.5)

a. *Wage rates and fringe benefits.* All laborers and mechanics employed or working upon the site of the work (or otherwise working in construction or development of the project under a development statute), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act ([29 CFR part 3](#))), the full amount of basic hourly wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. As provided in paragraphs (d) and (e) of 29 CFR 5.5, the appropriate wage determinations are effective by operation of law even if they have not been attached to the contract. Contributions made or costs reasonably anticipated for bona fide fringe benefits under the Davis-Bacon Act ([40 U.S.C. 3141\(2\)\(B\)](#)) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.e. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics must be paid the appropriate wage rate and fringe benefits on the wage determination for the classification(s) of work actually performed, without regard to skill, except as provided in paragraph 4. of this section. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided*, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph 1.c. of this section) and the Davis-Bacon poster (WH-1321) must be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. *Frequently recurring classifications.* (1) In addition to wage and fringe benefit rates that have been determined to be prevailing under the procedures set forth in [29 CFR part 1](#), a wage determination may contain, pursuant to § 1.3(f), wage and fringe benefit rates for classifications of laborers and mechanics for which conformance requests are regularly submitted pursuant to paragraph 1.c. of this section, provided that:

(i) The work performed by the classification is not performed by a classification in the wage determination for which a prevailing wage rate has been determined;

(ii) The classification is used in the area by the construction industry; and

(iii) The wage rate for the classification bears a reasonable relationship to the prevailing wage rates contained in the wage determination.

(2) The Administrator will establish wage rates for such classifications in accordance with paragraph 1.c.(1)(iii) of this section. Work performed in such a classification must be paid at no less than the wage and fringe benefit rate listed on the wage determination for such classification.

c. *Conformance.* (1) The contracting officer must require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract be classified in conformance with the wage determination. Conformance of an additional classification and wage rate and fringe benefits is appropriate only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is used in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) The conformance process may not be used to split, subdivide, or otherwise avoid application of classifications listed in the wage determination.

(3) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken will be sent by the contracting officer by email to [DBAconformance@dol.gov](mailto:DBAconformance@dol.gov). The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(4) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer will, by email to [DBAconformance@dol.gov](mailto:DBAconformance@dol.gov), refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(5) The contracting officer must promptly notify the contractor of the action taken by the Wage and Hour Division

under paragraphs 1.c.(3) and (4) of this section. The contractor must furnish a written copy of such determination to each affected worker or it must be posted as a part of the wage determination. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraph 1.c.(3) or (4) of this section must be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

d. *Fringe benefits not expressed as an hourly rate.* Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor may either pay the benefit as stated in the wage determination or may pay another bona fide fringe benefit or an hourly cash equivalent thereof.

e. *Unfunded plans.* If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program. *Provided,* That the Secretary of Labor has found, upon the written request of the contractor, in accordance with the criteria set forth in § 5.28, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

f. *Interest.* In the event of a failure to pay all or part of the wages required by the contract, the contractor will be required to pay interest on any underpayment of wages.

## 2. Withholding (29 CFR 5.5)

a. *Withholding requirements.* The contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for the full amount of wages and monetary relief, including interest, required by the clauses set forth in this section for violations of this contract, or to satisfy any such liabilities required by any other Federal contract, or federally assisted contract subject to Davis-Bacon labor standards, that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to Davis-Bacon labor standards requirements and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld. In the event of a contractor's failure to pay any laborer or mechanic, including any apprentice or helper working on the site of the work all or part of the wages required by the contract, or upon the contractor's failure to submit the required records as discussed in paragraph 3.d. of this section, the contracting agency may on its own initiative and after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

b. *Priority to withheld funds.* The Department has priority to funds withheld or to be withheld in accordance with paragraph

2 a. of this section or Section V, paragraph 3 a., or both, over claims to those funds by:

- (1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;
- (2) A contracting agency for its reprourement costs;
- (3) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;
- (4) A contractor's assignee(s);
- (5) A contractor's successor(s); or
- (6) A claim asserted under the Prompt Payment Act, [31 U.S.C. 3901–3907](#).

### 3. Records and certified payrolls (29 CFR 5.5)

a. *Basic record requirements* (1) *Length of record retention.* All regular payrolls and other basic records must be maintained by the contractor and any subcontractor during the course of the work and preserved for all laborers and mechanics working at the site of the work (or otherwise working in construction or development of the project under a development statute) for a period of at least 3 years after all the work on the prime contract is completed.

(2) *Information required.* Such records must contain the name; Social Security number; last known address, telephone number, and email address of each such worker; each worker's correct classification(s) of work actually performed; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in [40 U.S.C. 3141\(2\)\(B\)](#) of the Davis-Bacon Act); daily and weekly number of hours actually worked in total and on each covered contract; deductions made; and actual wages paid.

(3) *Additional records relating to fringe benefits.* Whenever the Secretary of Labor has found under paragraph 1.e. of this section that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in [40 U.S.C. 3141\(2\)\(B\)](#) of the Davis-Bacon Act, the contractor must maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits.

(4) *Additional records relating to apprenticeship.* Contractors with apprentices working under approved programs must maintain written evidence of the registration of apprenticeship programs, the registration of the apprentices, and the ratios and wage rates prescribed in the applicable programs.

b. *Certified payroll requirements* (1) *Frequency and method of submission.* The contractor or subcontractor must submit weekly, for each week in which any DBA- or Related Acts-covered work is performed, certified payrolls to the contracting

agency. The prime contractor is responsible for the submission of all certified payrolls by all subcontractors. A contracting agency or prime contractor may permit or require contractors to submit certified payrolls through an electronic system, as long as the electronic system requires a legally valid electronic signature; the system allows the contractor, the contracting agency, and the Department of Labor to access the certified payrolls upon request for at least 3 years after the work on the prime contract has been completed; and the contracting agency or prime contractor permits other methods of submission in situations where the contractor is unable or limited in its ability to use or access the electronic system.

(2) *Information required.* The certified payrolls submitted must set out accurately and completely all of the information required to be maintained under paragraph 3.a.(2) of this section, except that full Social Security numbers and last known addresses, telephone numbers, and email addresses must not be included on weekly transmittals. Instead, the certified payrolls need only include an individually identifying number for each worker (e.g., the last four digits of the worker's Social Security number). The required weekly certified payroll information may be submitted using Optional Form WH-347 or in any other format desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division website at <https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/wh347.pdf> or its successor website. It is not a violation of this section for a prime contractor to require a subcontractor to provide full Social Security numbers and last known addresses, telephone numbers, and email addresses to the prime contractor for its own records, without weekly submission by the subcontractor to the contracting agency.

(3) *Statement of Compliance.* Each certified payroll submitted must be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor, or the contractor's or subcontractor's agent who pays or supervises the payment of the persons working on the contract, and must certify the following:

(i) That the certified payroll for the payroll period contains the information required to be provided under paragraph 3.b. of this section, the appropriate information and basic records are being maintained under paragraph 3.a. of this section, and such information and records are correct and complete;

(ii) That each laborer or mechanic (including each helper and apprentice) working on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in [29 CFR part 3](#); and

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification(s) of work actually performed, as specified in the applicable wage determination incorporated into the contract.

(4) *Use of Optional Form WH-347.* The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 will satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(3) of this section.

(5) *Signature.* The signature by the contractor, subcontractor, or the contractor's or subcontractor's agent must be an original handwritten signature or a legally valid electronic signature.

(6) *Falsification.* The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under [18 U.S.C. 1001](#) and [31 U.S.C. 3729](#).

(7) *Length of certified payroll retention.* The contractor or subcontractor must preserve all certified payrolls during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

c. *Contracts, subcontracts, and related documents.* The contractor or subcontractor must maintain this contract or subcontract and related documents including, without limitation, bids, proposals, amendments, modifications, and extensions. The contractor or subcontractor must preserve these contracts, subcontracts, and related documents during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

d. *Required disclosures and access* (1) *Required record disclosures and access to workers.* The contractor or subcontractor must make the records required under paragraphs 3.a. through 3.c. of this section, and any other documents that the contracting agency, the State DOT, the FHWA, or the Department of Labor deems necessary to determine compliance with the labor standards provisions of any of the applicable statutes referenced by § 5.1, available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and must permit such representatives to interview workers during working hours on the job.

(2) *Sanctions for non-compliance with records and worker access requirements.* If the contractor or subcontractor fails to submit the required records or to make them available, or refuses to permit worker interviews during working hours on the job, the Federal agency may, after written notice to the contractor, sponsor, applicant, owner, or other entity, as the case may be, that maintains such records or that employs such workers, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available, or to permit worker interviews during working hours on the job, may be grounds for debarment action pursuant to § 5.12. In addition, any contractor or other person that fails to submit the required records or make those records available to WHD within the time WHD requests that the records be produced will be precluded from introducing as evidence in an administrative proceeding under [29 CFR part 6](#) any of the required records that were not provided or made available to WHD. WHD will take into consideration a reasonable request from the contractor or person for an extension of the time for submission of records. WHD will determine the reasonableness of the request and may consider, among other things, the location of the records and the volume of production.

(3) *Required information disclosures.* Contractors and subcontractors must maintain the full Social Security number and last known address, telephone number, and email address

of each covered worker, and must provide them upon request to the contracting agency, the State DOT, the FHWA, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or other compliance action.

#### **4. Apprentices and equal employment opportunity (29 CFR 5.5)**

a. *Apprentices* (1) *Rate of pay.* Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship (OA), or with a State Apprenticeship Agency recognized by the OA. A person who is not individually registered in the program, but who has been certified by the OA or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice, will be permitted to work at less than the predetermined rate for the work they perform in the first 90 days of probationary employment as an apprentice in such a program. In the event the OA or a State Apprenticeship Agency recognized by the OA withdraws approval of an apprenticeship program, the contractor will no longer be permitted to use apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(2) *Fringe benefits.* Apprentices must be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringe benefits must be paid in accordance with that determination.

(3) *Apprenticeship ratio.* The allowable ratio of apprentices to journeymen on the job site in any craft classification must not be greater than the ratio permitted to the contractor as to the entire work force under the registered program or the ratio applicable to the locality of the project pursuant to paragraph 4.a.(4) of this section. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in paragraph 4.a.(1) of this section, must be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under this section must be paid not less than the applicable wage rate on the wage determination for the work actually performed.

(4) *Reciprocity of ratios and wage rates.* Where a contractor is performing construction on a project in a locality other than the locality in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyworker's hourly rate) applicable within the locality in which the construction is being performed must be observed. If there is no applicable ratio or wage rate for the locality of the project, the ratio and wage rate specified in the contractor's registered program must be observed.

b. *Equal employment opportunity.* The use of apprentices and journeymen under this part must be in conformity with

the equal employment opportunity requirements of Executive Order 11246, as amended, and [29 CFR part 30](#).

c. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. 23 CFR 230.111(e)(2). The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

**5. Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract as provided in 29 CFR 5.5.

**6. Subcontracts.** The contractor or subcontractor must insert FHWA-1273 in any subcontracts, along with the applicable wage determination(s) and such other clauses or contract modifications as the contracting agency may by appropriate instructions require, and a clause requiring the subcontractors to include these clauses and wage determination(s) in any lower tier subcontracts. The prime contractor is responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this section. In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and may be subject to debarment, as appropriate. 29 CFR 5.5.

**7. Contract termination: debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

**8. Compliance with Davis-Bacon and Related Act requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract as provided in 29 CFR 5.5.

**9. Disputes concerning labor standards.** As provided in 29 CFR 5.5, disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

**10. Certification of eligibility.** a. By entering into this contract, the contractor certifies that neither it nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of [40 U.S.C. 3144\(b\)](#) or § 5.12(a).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of [40 U.S.C. 3144\(b\)](#) or § 5.12(a).

c. The penalty for making false statements is prescribed in the U.S. Code, Title 18 Crimes and Criminal Procedure, [18 U.S.C. 1001](#).

**11. Anti-retaliation.** It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

a. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#);

b. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#);

c. Cooperating in any investigation or other compliance action, or testifying in any proceeding under the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#); or

d. Informing any other person about their rights under the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#).

## V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

Pursuant to 29 CFR 5.5(b), the following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchpersons and guards.

**1. Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek. 29 CFR 5.5.

**2. Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in paragraph 1. of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages and interest from the date of the underpayment. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or

mechanic, including watchpersons and guards, employed in violation of the clause set forth in paragraph 1. of this section, in the sum currently provided in 29 CFR 5.5(b)(2)\* for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 1. of this section.

\* \$31 as of January 15, 2023 (See 88 FR 88 FR 2210) as may be adjusted annually by the Department of Labor, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990.

### 3. Withholding for unpaid wages and liquidated damages

a. *Withholding process.* The FHWA or the contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for any unpaid wages; monetary relief, including interest; and liquidated damages required by the clauses set forth in this section on this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to the Contract Work Hours and Safety Standards Act and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld.

b. *Priority to withheld funds.* The Department has priority to funds withheld or to be withheld in accordance with Section IV paragraph 2.a. or paragraph 3.a. of this section, or both, over claims to those funds by:

- (1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;
- (2) A contracting agency for its procurement costs;
- (3) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;
- (4) A contractor's assignee(s);
- (5) A contractor's successor(s); or
- (6) A claim asserted under the Prompt Payment Act, [31 U.S.C. 3901–3907](#).

4. **Subcontracts.** The contractor or subcontractor must insert in any subcontracts the clauses set forth in paragraphs 1. through 5. of this section and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor is responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 1. through 5. In the

event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and associated liquidated damages and may be subject to debarment, as appropriate.

5. **Anti-retaliation.** It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

- a. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the Contract Work Hours and Safety Standards Act (CWHSSA) or its implementing regulations in this part;
- b. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under CWHSSA or this part;
- c. Cooperating in any investigation or other compliance action, or testifying in any proceeding under CWHSSA or this part; or
- d. Informing any other person about their rights under CWHSSA or this part.

### VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System pursuant to 23 CFR 635.116.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" in paragraph 1 of Section VI refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions: (based on longstanding interpretation)

- (1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
- (2) the prime contractor remains responsible for the quality of the work of the leased employees;

(3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and  
(4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract. 23 CFR 635.102.

2. Pursuant to 23 CFR 635.116(a), the contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. Pursuant to 23 CFR 635.116(c), the contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract. (based on long-standing interpretation of 23 CFR 635.116).

5. The 30-percent self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements. 23 CFR 635.116(d).

#### **VII. SAFETY: ACCIDENT PREVENTION**

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR Part 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract. 23 CFR 635.108.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and

health standards (29 CFR Part 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704). 29 CFR 1926.10.

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

#### **VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS**

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR Part 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 11, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

**IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT (42 U.S.C. 7606; 2 CFR 200.88; EO 11738)**

This provision is applicable to all Federal-aid construction contracts in excess of \$150,000 and to all related subcontracts. 48 CFR 2.101; 2 CFR 200.327.

By submission of this bid/proposal or the execution of this contract or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, subcontractor, supplier, or vendor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal Highway Administration and the Regional Office of the Environmental Protection Agency. 2 CFR Part 200, Appendix II.

The contractor agrees to include or cause to be included the requirements of this Section in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements. 2 CFR 200.327.

**X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION**

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200. 2 CFR 180.220 and 1200.220.

**1. Instructions for Certification – First Tier Participants:**

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction. 2 CFR 180.320.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default. 2 CFR 180.325.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances. 2 CFR 180.345 and 180.350.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900-180.1020, and 1200. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction. 2 CFR 180.330.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold. 2 CFR 180.220 and 180.300.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. 2 CFR 180.300; 180.320, and 180.325. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. 2 CFR 180.335. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (<https://www.sam.gov>). 2 CFR 180.300, 180.320, and 180.325.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default. 2 CFR 180.325.

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**2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:**

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

- (1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency; 2 CFR 180.335;
- (2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; 2 CFR 180.800;
- (3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification, 2 CFR 180.700 and 180.800; and
- (4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default. 2 CFR 180.335(d).
- (5) Are not a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and
- (6) Are not a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability (USDOT Order 4200.6 implementing appropriations act requirements).

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal. 2 CFR 180.335 and 180.340.

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**3. Instructions for Certification - Lower Tier Participants:**

(Applicable to all subcontracts, purchase orders, and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200). 2 CFR 180.220 and 1200.220.

a. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which

this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances. 2 CFR 180.365.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900 – 180.1020, and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers to any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated. 2 CFR 1200.220 and 1200.332.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold. 2 CFR 180.220 and 1200.220.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (<https://www.sam.gov>), which is compiled by the General Services Administration. 2 CFR 180.300, 180.320, 180.330, and 180.335.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily

excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment. 2 CFR 180.325.

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#### **4. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:**

a. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals:

(1) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.355;

(2) is a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(3) is a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability. (USDOT Order 4200.6 implementing appropriations act requirements)

b. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal.

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#### **XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING**

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000. 49 CFR Part 20, App. A.

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or

cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

#### **XII. USE OF UNITED STATES-FLAG VESSELS:**

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, or any other covered transaction. 46 CFR Part 381.

This requirement applies to material or equipment that is acquired for a specific Federal-aid highway project. 46 CFR 381.7. It is not applicable to goods or materials that come into inventories independent of an FHWA funded-contract.

When oceanic shipments (or shipments across the Great Lakes) are necessary for materials or equipment acquired for a specific Federal-aid construction project, the bidder, proposer, contractor, subcontractor, or vendor agrees:

1. To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels. 46 CFR 381.7.

2. To furnish within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (b)(1) of this section to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Office of Cargo and Commercial Sealift (MAR-620), Maritime Administration, Washington, DC 20590. (MARAD requires copies of the ocean carrier's (master) bills of lading, certified onboard, dated, with rates and charges. These bills of lading may contain business sensitive information and therefore may be submitted directly to MARAD by the Ocean Transportation Intermediary on behalf of the contractor). 46 CFR 381.7.

**ATTACHMENT A - EMPLOYMENT AND MATERIALS  
PREFERENCE FOR APPALACHIAN DEVELOPMENT  
HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS  
ROAD CONTRACTS (23 CFR 633, Subpart B, Appendix B)**  
This provision is applicable to all Federal-aid projects funded  
under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

## **EXHIBIT B**

### **SCOPE OF SERVICES**

Services shall include **CIP 13-04 BRADLEY ROAD BRIDGE OVER SALT CREEK** services, including labor, materials, services and equipment is the total amount of all lump sum items and of all unit price sums, determined by multiplying the unit price for each item times the actual quantity of each such item, in the amount not to exceed **SIXTEEN MILLION ONE HUNDRED FIFTY TWO THOUSAND FIVE HUNDRED EIGHTY ONE DOLLARS AND FIFTEEN CENTS (\$16,152,581.15)** further detailed in the attached pages (if any). If the Services include Services pursuant to a request for proposals or bid, the Services shall include the work contemplated by the entire “Bid Package” or “Request for Proposals” for the Services, including all plans, addenda, documentation, and specifications attached thereto. A copy of the Bid Package and/or Request for Proposals, as applicable shall be retained with a copy of this Agreement. Contractor shall keep a copy of the same for at least three (3) years following termination of this Agreement.

The numerical reference for the Bid Package or Request for Proposals is: NIB 2025-07.

## Bradley Road Bridge Over Salt Creek

## BIDDER'S PROPOSAL (continued)

CIP No. 13-04

ITEM No.	ITEM CODE	ITEM DESCRIPTION	UNIT	QTY	ITEM PRICE (IN FIGURES)	TOTAL (IN FIGURES)
<b>BASE BID ITEMS</b>						
1	999990	MOBILIZATION (NOT TO EXCEED 5% OF TOTAL BID PRICE FOR BID ITEMS 2-116)	LS	1	\$615,000.00	\$615,000.00
2	080001	RESIDENT ENGINEER FIELD OFFICE	LS	1	\$180,000.00	\$180,000.00
3	020001	CONSTRUCTION SURVEY STAKING	LS	1	\$218,000.00	\$218,000.00
4	050001	POTHOLE FOR EXISTING UTILITIES	LS	1	\$50,000.00	\$50,000.00
5	070300	LEAD COMPLIANCE PLAN	LS	1	\$2,500.00	\$2,500.00
6	080060	LEVEL 2 CRITICAL PATH METHOD SCHEDULE	LS	1	\$17,500.00	\$17,500.00
7	120090	CONSTRUCTION AREA SIGNS	LS	1	\$30,000.00	\$30,000.00
8	120100A	TRAFFIC AND PEDESTRIAN CONTROL	LS	1	\$32,150.00	\$32,150.00
9	130100	JOB SITE MANAGEMENT	LS	1	\$60,000.00	\$60,000.00
10	130300	STORM WATER POLLUTION PREVENTION PLAN (INCLUDE, SAMPLING, FILING AND FEES. CITY WILL PROVIDE DRAFT SWPPP)	LS	1	\$12,950.00	\$12,950.00
11	130330	STORM WATER ANNUAL REPORT	EA	3	\$1,500.00	\$4,500.00
12	130620	TEMPORARY DRAINAGE INLET PROTECTION	EA	7	\$800.00	\$5,600.00
13	130640	TEMPORARY FIBER ROLL	LF	2,670	\$10.00	\$26,700.00
14	130680	TEMPORARY SILT FENCE	LF	690	\$15.00	\$10,350.00
15	130710	TEMPORARY CONSTRUCTION ENTRANCE	EA	2	\$15,000.00	\$30,000.00
16	130730	STREET SWEEPING	LS	1	\$75,000.00	\$75,000.00
17	130900	TEMPORARY CONCRETE WASHOUT	LS	1	\$40,000.00	\$40,000.00

1-2R

## Bradley Road Bridge Over Salt Creek

## BIDDER'S PROPOSAL (continued)

CIP No. 13-04

18	131201	TEMPORARY CREEK DIVERSION SYSTEMS	LS	1	\$460,000.00	\$460,000.00
19	141120	TREATED WOOD WASTE	LB	120	\$10.00	\$1,200.00
20	153120	REMOVE CONCRETE (CUT OFF WALL)	LF	580	\$90.00	\$52,200.00
21	153248	REMOVE CONCRETE (SALT LAKE TRAIL PATH, ROCK BLANKET, SLOPE PAVING, CONCRETE PADS)	SQFT	9,800	\$3.50	\$34,300.00
22	170103	CLEARING AND GRUBBING (LS)	LS	1	\$62,500.00	\$62,500.00
23	170104A	REMOVE TREE	EA	3	\$2,000.00	\$6,000.00
24	190101 (F)	ROADWAY EXCAVATION	CY	4,610	\$15.00	\$69,150.00
25	192003 (F)	STRUCTURE EXCAVATION (BRIDGE)	CY	1,828	\$35.00	\$63,980.00
26	192037 (F)	STRUCTURE EXCAVATION (RETAINING WALL)	CY	236	\$70.00	\$16,520.00
27	192025 (F)	STRUCTURE EXCAVATION (BOX CULVERT)	CY	870	\$45.00	\$39,150.00
28	193003 (F)	STRUCTURE BACKFILL (BRIDGE)	CY	1,358	\$50.00	\$67,900.00
29	193013 (F)	STRUCTURE BACKFILL (RETAINING WALL)	CY	175	\$75.00	\$13,125.00
30	193004 (F)	STRUCTURE BACKFILL (BOX CULVERT)	CY	785	\$50.00	\$39,250.00
31	193006 (F)	STRUCTURE BACFILL (CLSM)	CY	5	\$1,200.00	\$6,000.00
32	198010 (F)	IMPORTED BORROW (CY)	CY	5,360	\$30.00	\$160,800.00
33	200114	ROCK BLANKET	SQFT	105	\$55.00	\$5,775.00
34	260203	CLASS 2 AGGREGATE BASE (CY)	CY	2,425	\$96.00	\$232,800.00
35	390132	HOT MIX ASPHALT (TYPE A)	TON	1,010	\$120.00	\$121,200.00
36	390137	RUBBERIZED HOT MIX ASPHALT (GAP GRADED)	TON	590	\$188.00	\$110,920.00

1-3R

## Bradley Road Bridge Over Salt Creek

## BIDDER'S PROPOSAL (continued)

CIP No. 13-04

37	397005	TACK COAT	TON	1.4	\$7,700.00	\$10,780.00
38	398001	REMOVE ASPHALT CONCRETE PAVEMENT (SQFT)	SQFT	77,100	\$0.75	\$57,825.00
39	398100	REMOVE ASPHALT CONCRETE DIKE	LF	340	\$3.50	\$1,190.00
40	398200	COLD PLANE ASPHALT CONCRETE PAVEMENT	SQYD	270	\$31.00	\$8,370.00
41	490603	24" CAST-IN-DRILLED-HOLE CONCRETE PILING	LF	2,579	\$250.00	\$644,750.00
42	490617	90" CAST-IN-DRILLED-HOLE CONCRETE PILING	LF	516	\$1,500.00	\$774,000.00
43	500001	PRESTRESSING CAST-IN-PLACE CONCRETE	LS	1	\$189,000.00	\$189,000.00
44	510051 (F)	STRUCTURAL CONCRETE, BRIDGE FOOTING	CY	262	\$1,200.00	\$314,400.00
45	510053 (F)	STRUCTURAL CONCRETE, BRIDGE	CY	1,222	\$1,800.00	\$2,199,600.00
46	510054 (F)	STRUCTURAL CONCRETE, BRIDGE (POLYMER FIBER)	CY	632	\$1,200.00	\$758,400.00
47	510060 (F)	STRUCTURAL CONCRETE, RETAINING WALL TYPE 5 CASE 1	CY	65	\$2,710.00	\$176,150.00
48	510085 (F)	STRUCTURAL CONCRETE, APPROACH SLAB (TYPE EQ)	CY	55	\$3,260.00	\$179,300.00
49	510090 (F)	STRUCTURAL CONCRETE, BOX CULVERT	CY	290	\$2,000.00	\$580,000.00
50	510092 (F)	STRUCTURAL CONCRETE, HEADWALL	CY	18	\$9,600.00	\$172,800.00
51	510502	MINOR CONCRETE, MINOR STRUCTURE (GRAVITY RETAINING WALL)	CY	8	\$553.00	\$4,424.00
52	511055 (F)	CONCRETE SURFACE TEXTURE	SQFT	1,475	\$109.00	\$160,775.00
53	519092	JOINT SEAL ASSEMBLY (MR 2 1/2")	LF	129	\$1,300.00	\$167,700.00
54	520102 (F)	BAR REINFORCING STEEL (BRIDGE)	LB	937,246	\$1.30	\$1,218,419.80
55	520103 (F)	BAR REINFORCING STEEL (RETAINING WALL)	LB	9,523	\$1.50	\$14,284.50

1-4B

## Bradley Road Bridge Over Salt Creek

## BIDDER'S PROPOSAL (continued)

CIP No. 13-04

56	520107 (F)	BAR REINFORCING STEEL (BOX CULVERT)	LB	78,803	\$0.20	\$15,760.00
57	650014	18" REINFORCED CONCRETE PIPE	LF	75	\$200.00	\$15,000.00
58	650030	42" REINFORCED CONCRETE PIPE	LF	18	\$685.00	\$12,330.00
59	710132	REMOVE CULVERT (LF)	LF	180	\$50.00	\$9,000.00
60	710152	REMOVE HEADWALL	EA	2	\$3,000.00	\$6,000.00
61	723050	ROCK SLOPE PROTECTION (1/4 T, CLASS V, METHOD B) (CY)	CY	1,460	\$146.00	\$213,160.00
62	723215	CONCRETED-ROCK SLOPE PROTECTION (1/4 T, CLASS V, METHOD B) (CY)	CY	180	\$207.00	\$37,260.00
63	729011	ROCK SLOPE PROTECTION FABRIC (CLASS 8)	SQYD	1,525	\$5.00	\$7,625.00
64	730070	DETECTABLE WARNING SURFACE	SQFT	168	\$55.00	\$9,240.00
65	731504	MINOR CONCRETE (CURB AND GUTTER)	CY	140	\$670.00	\$93,800.00
66	731505A	MINOR CONCRETE (CROSS GUTTER AND SPANDREL)	CY	38	\$750.00	\$28,500.00
67	731516	MINOR CONCRETE (DRIVEWAY)	CY	49	\$750.00	\$36,750.00
68	731521	MINOR CONCRETE (SIDEWALK)	CY	108	\$580.00	\$62,640.00
69	731623	MINOR CONCRETE (CURB RAMP)	CY	10	\$961.00	\$9,610.00
70	731628A	MINOR CONCRETE (6" THICK ACCESS ROAD AND RAMP, INCLUDES REINFORCEMENT)	CY	250	\$710.00	\$177,500.00
71	731820	REMOVE CONCRETE SIDEWALK AND DRIVEWAY	CY	160	\$210.00	\$33,600.00
72	731840	REMOVE CONCRETE (CURB AND GUTTER)	LF	1,460	\$25.00	\$36,500.00
73	731841A	REMOVE CONCRETE (CROSS GUTTER)	CY	81	\$210.00	\$17,010.00
74	750501 (F)	MISCELLANEOUS METAL (BRIDGE)	LB	7,052	\$15.00	\$105,780.00

1-5R

## Bradley Road Bridge Over Salt Creek

## BIDDER'S PROPOSAL (continued)

CIP No. 13-04

75	770001A	CATCH BASIN NO. 1	EA	7	\$16,000.00	\$112,000.00
76	770002A	MANHOLE NO. 3	EA	8	\$9,300.00	\$74,400.00
77	770003A	STORMWATER BIOFILTRATION SYSTEM	EA	1	\$121,000.00	\$121,000.00
78	770090A	BRIDGE LIGHTING	LS	1	\$261,000.00	\$261,000.00
79	770061	STRUCTURAL CONCRETE (JUNCTION STRUCTURE NO. 1)	EA	2	\$10,700.00	\$21,400.00
80	770062	STRUCTURAL CONCRETE (TRANSITION STRUCTURE NO 2)	EA	2	\$30,000.00	\$60,000.00
81	770063	STRUCTURAL CONCRETE (JUNCTION STRUCTURE RCB TO RCB)	EA	5	\$7,200.00	\$36,000.00
82	703460	WELDED STEEL PIPE CASING (BRIDGE)	LF	40	\$1,450.00	\$58,000.00
83	770065	STRUCTURAL CONCRETE (COLLAR) CONNECTION TO EXISTING STORM DRAIN	EA	1	\$6,000.00	\$6,000.00
84	770066	FURNISH AND INSTALL CITY STREET SIGN	EA	6	\$450.00	\$2,700.00
85	770067	REMOVE, SALVAGE, AND REPLACE CITY OF MENIFEE STREET LIGHT	EA	1	\$18,000.00	\$18,000.00
86	770068	REMOVE CITY STREET LIGHT & PULL BOX	EA	1	\$1,700.00	\$1,700.00
87	780250	ADJUST MONUMENT COVER TO GRADE	EA	2	\$1,900.00	\$3,800.00
88	780255A	ADJUST UTILITY COVER/SLEEVE TO GRADE	EA	24	\$1,900.00	\$45,600.00
89	780257A	ADJUST FIRE HYDRANT TO GRADE	EA	3	\$2,700.00	\$8,100.00
90	780259A	ADJUST MANHOLE TO GRADE	EA	7	\$1,700.00	\$11,900.00
91	780433	PAINT CURB (2-COAT)	SQFT	130	\$3.50	\$455.00
92	780460 (F)	ANTI GRAFITTI COATING	LS	1	\$50,000.00	\$50,000.00
93	782110	RESET MAILBOX	EA	4	\$950.00	\$3,800.00

1-6R

## Bradley Road Bridge Over Salt Creek

## BIDDER'S PROPOSAL (continued)

CIP No. 13-04

94	803050	REMOVE CHAIN LINK FENCE	LF	400	\$12.00	\$4,800.00
95	803060	REMOVE GATE	EA	4	\$500.00	\$2,000.00
96	801361A	PIPE SWING GATE	EA	4	\$5,700.00	\$22,800.00
97	810230	PAVEMENT MARKER (RETROREFLECTIVE)	EA	110	\$5.25	\$577.50
98	820250	REMOVE ROADSIDE SIGN	EA	8	\$75.00	\$600.00
99	820300	REMOVE ROADSIDE SIGN (STRAP AND SADDLE BRACKET METHOD)	EA	3	\$75.00	\$225.00
100	820530	RESET ROADSIDE SIGN	EA	12	\$175.00	\$2,100.00
101	820610	RELOCATE ROADSIDE SIGN	EA	15	\$175.00	\$2,625.00
102	833035A	METAL BRIDGE RAILING	LF	670	\$360.00	\$241,200.00
103	833088	TUBULAR HANDRAILING	LF	82	\$115.00	\$9,430.00
104	839521	CABLE RAILING	LF	62	\$96.00	\$5,952.00
105	839719	CONCRETE BARRIER (TYPE 732SW)	LF	752	\$450.00	\$338,400.00
106	840505	6" THERMOPLASTIC TRAFFIC STRIPE	LF	4,900	\$2.50	\$12,250.00
107	840506	8" THERMOPLASTIC TRAFFIC STRIPE	LF	450	\$3.00	\$1,350.00
108	840507	6" THERMOPLASTIC TRAFFIC STRIPE (BROKEN 8-4)	LF	220	\$2.50	\$550.00
109	840515	THERMOPLASTIC PAVEMENT MARKING	SQFT	1,100	\$9.25	\$10,175.00
110	840529	6" THERMOPLASTIC TRAFFIC STRIPE (BROKEN 36-12)	LF	210	\$2.50	\$525.00
111	840656	PAINT TRAFFIC STRIPE (2-COAT)	LF	1,400	\$2.50	\$3,500.00
112	840666	PAINT PAVEMENT MARKING (2- COAT)	SQFT	23	\$9.25	\$212.75

1-7R

## Bradley Road Bridge Over Salt Creek

## BIDDER'S PROPOSAL (continued)

CIP No. 13-04

113	872133	MODIFYING SIGNAL AND LIGHTING SYSTEMS	LS	1	\$131,000.00	\$131,000.00
114	210010	MOVE-IN/MOVE-OUT (EROSION CONTROL)	EA	1	\$500.00	\$500.00
115	210030	HYDROMULCH	SQFT	50,000	\$0.05	\$2,500.00
116	210430	HYDROSEED	SQFT	50,000	\$0.20	\$10,000.00
<b>BASE BID ITEMS SUB-TOTAL</b>						\$13,231,381.15

<b>ADDITIVE BID ITEMS</b>						
117	999990	MOBILIZATION (NOT TO EXCEED 5% OF TOTAL BID PRICE FOR BID ITEMS 119-122)	LS	1	\$135,000.00	\$135,000.00
118		ADDITIVE BID ITEMS CONSTRUCTION SURVEY AND STAKING	LS	1	\$8,400.00	\$8,400.00
<b>ADDITIVE ALTERNATIVE A</b>						
119	770100A	12" WATER MAIN IMPROVEMENTS: Furnish and install all necessary materials, labor, and equipment for the construction of the 12-inch water pipeline relocation, including but not limited to the installation of all necessary appurtenances, concrete vault with hatch, steel casings, dewatering of existing pipeline, all testing, start-up as specified, test stations, removal and disposal of existing pipeline and appurtenances, abandonment of existing pipeline with grout, and excavation and backfill per EMWD standards, contract drawings, and specifications, complete and in place	LS	1	\$645,050.00	\$645,050.00

1-8R

CIP No. 13-04

<b><u>ADDITIVE ALTERNATIVE B</u></b>						
120	770101A	24" WATER MAIN IMPROVEMENTS: Furnish and install all necessary materials, labor, and equipment for the construction of the 24-inch water pipeline, including but not limited to the installation of all necessary appurtenances, concrete vault with hatch, steel casings, all testing, start-up as specified, and excavation and backfill per EMWD standards, contract drawings, and specifications, complete and in place.	LS	1	\$767,250.00	\$767,250.00
<b><u>ADDITIVE ALTERNATIVE C</u></b>						
121	770102A	18" RECYCLED WATER MAIN IMPROVEMENTS: Furnish and install all necessary materials, labor, and equipment for the construction of the 18-inch recycled water pipeline, including but not limited to the installation of all necessary appurtenances, concrete vault with hatch, steel casings, all testing, startup as specified, and excavation and backfill per EMWD standards, contract drawings, and specifications, complete and in place.	LS	1	\$623,250.00	\$623,250.00
<b><u>ADDITIVE ALTERNATIVE D</u></b>						
122	770103A	48" RECYCLED WATER MAIN IMPROVEMENTS: Furnish and install all necessary materials, labor, and equipment for the construction of the 48-inch recycled water pipeline relocation, including but not limited to the installation of all necessary appurtenances, steel casings, dewatering of existing pipeline, all testing, start-up as specified, removal and disposal of existing pipeline and appurtenances, abandonment of existing pipeline with grout, and trench backfill per EMWD standards, contract drawings, and specifications, complete and in place.	LS	1	\$742,250.00	\$742,250.00
<b>ADDITIVE BID ITEMS SUB-TOTAL</b>						\$2,921,200.00

1-9-R

CIP No. 13-04

<b>TOTAL BID (BASE BID + ADDITIVE BID ITEMS)</b>	\$16,152,581.15
--	-----------------

**Total in words:** Sixteen Million One Hundred Fifty-Two Thousand Five Hundred Eighty One Dollars and Fifteen Cents

In the event of a variation between the unit price and extended total, the unit price will be used and the corrected extension will be considered as the amount bid. If the bid is illegible and cannot be reconciled it will be considered non-responsive and will not be considered for award.

The lowest responsive bidder shall be determined by comparing sum of the base bid amount(s) with that of all additive or alternative bids (if any) of bidders deemed by the Owner to be responsive in all other aspects. If equal low bids are received from responsible and responsive bidders the selection shall be made by drawing lots, or other similar random blind method selected by the Owner. If only one responsive bid is received from a responsible bidder the award shall not be made unless the price can be determined to be reasonable based on an analysis by the Owner. The Owner's determination as to the reasonableness of any such bid shall be final.

All bids received shall be recorded on an abstract (tabulation) of bids, and then made available for public inspection.

The quantities listed in the bid proposal are provided to give a general indication of the scope of the work and for the comparison of bids. No warranty is made, either expressed or implied, that the actual quantities of work to be done will correspond therewith. Item numbers followed by "(S)" are designated as specialty items. Item numbers followed by "(F)" are designated as final pay items.

By signing and submitting this bid the Contractor confirms that they are familiar with the work site and all existing conditions that may affect their work and that they have read and agree to all the terms, conditions and requirements contained or referenced herein and that all the aforementioned has been included in the bid prices listed above including items of work that may not have a specific pay line item and that there shall be no additional costs to the Owner.

**WARNING:** If an addendum or addenda have been issued by the Owner and not noted above as being received by the bidder, this Bid may be rejected.

1-10-R

Bradley Road Bridge Over Salt Creek

**BIDDER'S PROPOSAL (continued)**

CIP No. 13-04

Complete the following:

Ames Construction, Inc.  
Legal name of the business

Corporation  
Business Type (Corporation, Partnership, Sole Proprietor)

Not Applicable  
DBA (if any)

Jerome Ouimet, President & Chief Executive Officer  
Name and title of the owner

Thomas W. Bessel, Chief Financial Officer  
Name and title of second partner or officer

391 N. Main Street, Suite 302, Corona, CA 92880  
Business Address

(951) 356-1275  
Telephone number

(951) 549-9003  
Facsimile number

TimWilson@amesco.com - Timothy K. Wilson, P.E., Senior Vice President  
Email address of primary contact

https://www.AmesConstruction.com  
Company web address

  
Signature of Prime Contractor

03/20/2025  
Date

  
Signature of Prime Contractor

3/20/2025  
Date

Timothy K. Wilson, Senior Vice President  
Print name and title

Thomas W. Bessel, Chief Financial Officer  
Print name and title

*(If the Prime Contractor is a corporation two signatures of corporate officers are required.)*

CIP No. 13-04

**CERTIFICATE REGARDING CONTRACTOR'S LICENSE**

1. Contractor is required to possess one of the following State Contractor's License:

State of California Class "A" Contractor's License

2. A failure to possess the required license, a failure to truthfully set forth the following information, or a failure to execute this Certificate renders the proposal nonresponsive and requires the City to reject the proposal. (Business and Professions Code Section 7028.15)

3. Contractor declares, under penalty of perjury, that he possesses the required Contractor's license(s) which:

a. Bears the license number(s): 490481

b. Expires on: 4/30/2026

  
Signature of Prime Contractor      03/20/2025  
Date

Timothy K. Wilson, Senior Vice President  
Print name and title

  
Signature of Prime Contractor      3/20/25  
Date

Thomas W. Bessel, Chief Financial Officer  
Print name and title

*(If the Prime Contractor is a corporation two signatures of corporate officers are required.)*

This required license determination has been made by the Owner. Any Contractor holding a different license who feels he is qualified to bid on this work must so advise the owner at least seven (7) days prior to the bid opening. A review of the contemplated work will be made and the Owner's decision as to the required license will be final.

CIP No. 13-04

**DESIGNATION OF SUBCONTRACTORS****PLEASE COMPLETE EXHIBIT 12-B PARTS 1 AND 2 IN THE FOLLOWING PAGES.**

In compliance with the provisions of the Subletting and Subcontracting Fair Practices Act (Section 4100 et seq of the Government Code of the State of California) the undersigned Bidder has set forth below the full name and the location of the place of business of each Subcontractor who will perform work or labor or render service to the Prime Contractor in or about the construction of the work or improvement, or a Subcontractor licensed by the State of California who, under subcontract to the Prime Contractor, specially fabricates and installs a portion of the work or improvement according to detailed drawings contained in the plans and specifications to which the attached bid is responsive, and the portion of the work which will be done by each Subcontractor for each subcontract in excess of one-half of one percent of the Prime Contractor's total bid.

The Bidder understands that if he fails to specify a subcontractor for any portion of the work to be performed under the contract in excess of one-half of one percent of his bid, he shall be deemed to have agreed to perform such portion of the work with contractor's own forces. Substitution shall not be allowed, except in cases of public emergency or necessity, and then only after a finding, reduced to writing as a public record of the City, setting forth the facts constituting the emergency or necessity. If no subcontractors are to be employed on the project, enter the word "NONE".



Total Bid amount: \_\_\_\_\_

Total subcontracted amount: \_\_\_\_\_

(Do not include specialty items in the calculation.)

Percentage (%) of total contract amount that is subcontracted: \_\_\_\_\_ %

Signed this 20 day of March, 2025.

	<u>03/20/2025</u>		<u>3/20/25</u>
Signature of Prime Contractor	Date	Signature of Prime Contractor	Date

Timothy K. Wilson, Senior Vice President

Print name and title

Thomas W. Bessel, Chief Financial Officer

Print name and title

(If the Prime Contractor is a corporation, two signatures of corporate officers are required.)

**BIDDER'S PROPOSAL**  
**BRADLEY BRIDGE OVER SALT CREEK**  
**CIP No. 13-04**

**Exhibit 12-B Bidder's List of Subcontractor (DBE and Non-DBE) Part 1**

As of March 1, 2015 Contractors (and sub-contractors) wishing to bid on public works contracts shall be registered with the State Division of Industrial Relations and certified to bid on Public Works contracts. Please register at: <https://www.dir.ca.gov/Public-Works/Contractor-Registration.html>  
 In accordance with Title 49, Section 26.11 of the Code of Federal Regulations, and Section 4104 of the Public Contract Code of the State of California, as amended, the following information is required for each sub-contractor who will perform work amounting to more than one half of one percent (0.5%) of the Total Base Bid or \$10,000 (whichever is greater). **Photocopy this form for additional firms.** Federal Project Number: **HSIPL 5483(011)**

Subcontractor Name and Location	Line Item & Description	Subcontract Amount	Percentage of Bid Item Sub-contracted	Contractor License Number	DBE (Y/N)	DBE Cert Number	Annual Gross Receipts
				DIR Reg Number			
Name: BARYEH CONSTRUCTION INC. City, State: HENDERSON, NV 89011	48. STR. CC. APPROACH SLAB TYPE EQ	\$129,250	72%	983667	Y	41391	<input type="checkbox"/> <\$1 million
	53. JOINT SEAL ASSEMBLY	\$122,550	73%	1000063217			<input checked="" type="checkbox"/> <\$5 million
Name: UNIVERSAL CONSTRUCTION AND ENGINEERING City, State: PALM DESERT, CA	1. MOBILIZATION	\$2,500	.03%	1019619	Y	44250	<input type="checkbox"/> <\$1 million
	23. ROCK BLANKET	\$5,775	100%	1000534892			<input type="checkbox"/> <\$5 million
Name: UNIVERSAL CONSTRUCTION AND ENGINEERING City, State: PALM DESERT, CA	51. MINOR CONCRETE, MINOR STRUCTURE (GRAVITY RETAINING WALL)	\$4,420	100%	1000534892	Y	44250	<input type="checkbox"/> <\$10 million
	64. DETECTABLE WARNING SURFACE	\$9,240	100%	1000534892			<input checked="" type="checkbox"/> <\$15 million
Name: UNIVERSAL CONSTRUCTION AND ENGINEERING City, State: PALM DESERT, CA	65. MINOR CONCRETE (CURB AND GUTTER)	\$93,114	99%	1019619	Y	44250	<input type="checkbox"/> <\$1 million
	66. MINOR CONCRETE (CROSS GUTTER AND SPANDREL)	\$27,915	98%	1000534892			<input type="checkbox"/> <\$5 million
Name: UNIVERSAL CONSTRUCTION AND ENGINEERING City, State: PALM DESERT, CA	67. MINOR CONCRETE (DRIVEWAY)	\$36,417	99%	1000534892	Y	44250	<input type="checkbox"/> <\$10 million
	68. MINOR CONCRETE (SIDEWALK)	\$62,446	100%	1000534892			<input checked="" type="checkbox"/> <\$15 million
Name: UNIVERSAL CONSTRUCTION AND ENGINEERING City, State: PALM DESERT, CA	69. MINOR CONCRETE (CURB RAMP)	\$9,603	100%	1019619	Y	44250	<input type="checkbox"/> <\$1 million
	70. MINOR CONCRETE (6" THICK ACCESS ROAD AND RAMP, INCLUDES REINFORCEMENT)	\$176,300	99%	1000534892			<input type="checkbox"/> <\$5 million
Name: MALCOLM DRILLING COMPANY INC. City, State: SAN FRANCISCO, CA	1. MOBILIZATION	\$200,000	31%	259543	N		<input type="checkbox"/> <\$10 million
	41.24" CIDH CONCRETE PILING	\$566,735	88%	1000003389			<input type="checkbox"/> <\$15 million
Name: DYWIDAG SYSTEMS INTERNATIONAL USA INC. City, State: BOLINGBROOK, IL	42.90" CIDH CONCRETE PILING	\$619,200	80%	1000006705	N		<input type="checkbox"/> <\$10 million
	43. PRESTRESSING CAST-IN-PLACE CONCRETE	\$174,800	92%	1000006705			<input type="checkbox"/> <\$15 million

**BIDDER'S PROPOSAL**  
**BRADLEY BRIDGE OVER SALT CREEK**  
CIP No. 13-04

**Exhibit 12-B Bidder's List of Subcontractor (DBE and Non-DBE) Part 1**

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In accordance with Title 49, Section 26.11 of the Code of Federal Regulations, and Section 4104 of the Public Contract Code of the State of California, as amended, the following information is required for each sub-contractor who will perform work amounting to more than one half of one percent (0.5%) of the Total Base Bid or \$10,000 (whichever is greater). **Photocopy this form for additional firms.** Federal Project Number: **HSIPL 5483(011)**

Subcontractor Name and Location	Line Item & Description	Subcontract Amount	Percentage of Bid Item Sub-contracted	Contractor License Number DIR Reg Number	DBE (Y/N)	DBE Cert Number	Annual Gross Receipts
Name: <b>MARTIN MARIETTA SAN DIEGO AGGREGATES LLC</b> dba: <b>ATE GENERAL ENGINEERING CONTRACTORS</b> City, State: <b>SAN DIEGO, CA</b>	1. MOBILIZATION 35. HMA (TYPE A) 36. RHMA (GAP GRADED) 37. TACK COAT 40. COLD PLANE ASPHALT CONCRETE PAVEMENT	\$25,000 \$109,080 \$103,840 \$10,710 \$8,100	4% 90% 94% 99% 97%	502506    1000012615			<input type="checkbox"/> <\$1 million <input type="checkbox"/> <\$5 million <input type="checkbox"/> <\$10 million <input type="checkbox"/> <\$15 million Age of Firm: 38 yrs.
Name: <b>BERT W SALAS INC</b> City, State: <b>LAKEVIEW, CA</b>	1. MOBILIZATION 61. RSP (1/4T, CLASS V, METHOD B) 62. CONCRETE DRSP (1/4T, CLASS V, METHOD B) 63. RSP FABRIC (CLASS 8)	\$6,400 \$204,400 \$35,640 \$6,100	1% 96% 96% 80%	275199  1000004246	Y	77	<input type="checkbox"/> <\$1 million <input type="checkbox"/> <\$5 million <input checked="" type="checkbox"/> <\$10 million <input type="checkbox"/> <\$15 million Age of Firm: 54 yrs.
Name: <b>COR-RAY PAINTING CO</b> City, State: <b>SANTA FE SPRINGS, CA</b>	52. CONCRETE SURFACE TEXTURE 92. ANTI GRAFFITI COATING	\$103,250 \$48,725	64% 97%	233474  1000004748	N		<input type="checkbox"/> <\$1 million <input type="checkbox"/> <\$5 million <input type="checkbox"/> <\$10 million <input type="checkbox"/> <\$15 million Age of Firm: 61 yrs.
Name: <b>TRINITY FENCE COMPANY</b> City, State: <b>RIVERSIDE, CA</b>	94. REMOVE CHAIN LINK FENCE 95. REMOVE GATE 96. PIPE SWING GATE 102. METAL BRIDGE RAILING 103. TUBULAR HANDRAILING 104. CABLE RAILING	\$4,800 \$2,000 \$22,652 \$239,860 \$9,266 \$5,962	100% 100% 100% 100% 100% 100%	1062599  1000556994	Y	51857	<input type="checkbox"/> <\$1 million <input checked="" type="checkbox"/> <\$5 million <input type="checkbox"/> <\$10 million <input type="checkbox"/> <\$15 million Age of Firm: 7 yrs.
Name: <b>V T ELECTRIC INC</b> City, State: <b>ONTARIO, CA</b>	78. BRIDGE LIGHTING 85. REMOVE, SALVAGE, AND REPLACE STREET LIGHT & FULL BOX 86. REMOVE CITY STREET LIGHT 113. MODIFYING SIGNAL AND LIGHTING SYSTEMS	\$260,214 \$17,716 \$1,698 \$130,886	100% 100% 100% 100%	763236  1000005674	Y	30828	<input type="checkbox"/> <\$1 million <input type="checkbox"/> <\$5 million <input type="checkbox"/> <\$10 million <input checked="" type="checkbox"/> <\$15 million Age of Firm: 26 yrs.
Name: <b>MARVELLA STEEL PLACERS</b> City, State: <b>SIGNAL HILL, CA</b>	80. STRUCTURAL CONCRETE, HEADWALL 84. BAR REINFORCING STEEL (BRIDGE)	\$64,974 \$4,792 \$1,078,676	10% 3% 93%	1013530  1000045289	Y	43763	<input type="checkbox"/> <\$1 million <input type="checkbox"/> <\$5 million <input checked="" type="checkbox"/> <\$10 million <input type="checkbox"/> <\$15 million Age of Firm: 9 yrs.

**BIDDER'S PROPOSAL**  
**BRADLEY BRIDGE OVER SALT CREEK**  
CIP No. 13-04

**Exhibit 12-B Bidder's List of Subcontractor (DBE and Non-DBE) Part 1**

As of March 1, 2015 Contractors (and sub-contractors) wishing to bid on public works contracts shall be registered with the State Division of Industrial Relations and certified to bid on Public Works contracts. Please register at: <https://www.dir.ca.gov/Public-Works/Contractor-Registration.html>  
In accordance with Title 49, Section 26.11 of the Code of Federal Regulations, and Section 4104 of the Public Contract Code of the State of California, as amended, the following information is required for each sub-contractor who will perform work amounting to more than one half of one percent (0.5%) of the Total Base Bid or \$10,000 (whichever is greater). **Photocopy this form for additional firms.** Federal Project Number: **HSIPL 5483(011)**

Subcontractor Name and Location	Line Item & Description	Subcontract Amount	Percentage of Bid Item Sub-contracted	Contractor License Number DIR Reg Number	DBE (Y/N)	DBE Cert Number	Annual Gross Receipts
Name: MARVELLA STEEL PLACERS City, State: SIGNAL HILL, CA	55.BAR REINFORCING STEEL (RETAINING WALL)	\$11,499	87% 10%	1013530 1000045289	Y	43763	<input type="checkbox"/> <\$1 million <input type="checkbox"/> <\$5 million <input checked="" type="checkbox"/> <\$10 million <input type="checkbox"/> <\$15 million Age of Firm: 9 yrs.
Name: MARVELLA STEEL PLACERS City, State: SIGNAL HILL, CA	79.STRUCTURAL CONCRETE (JUNCTION STRUCTURE NO. 1) 80.STRUCTURAL CONCRETE (TRANSITION STRUCTURE NO. 2) 81.STRUCTURAL CONCRETE (JUNCTION STRUCTURE ROB TO RCB)	\$681 \$3,777 \$1,211	3% 6% 3%	1013530 1000045289	Y	43763	<input type="checkbox"/> <\$1 million <input type="checkbox"/> <\$5 million <input checked="" type="checkbox"/> <\$10 million <input type="checkbox"/> <\$15 million Age of Firm: 9 yrs.
Name: MARVELLA STEEL PLACERS City, State: SIGNAL HILL, CA	105.CONCRETE BARRIER (TYPE 732SW) 119.12" WATER MAIN IMPROVEMENTS 120.24" WATER MAIN IMPROVEMENTS 121.18" RECYCLED WATER MAIN IMPROVEMENTS:	\$36,166 \$2,563 \$2,563 \$2,563	11% .03% .03% .04%	1013530 1000045289	Y	43763	<input type="checkbox"/> <\$1 million <input type="checkbox"/> <\$5 million <input checked="" type="checkbox"/> <\$10 million <input type="checkbox"/> <\$15 million Age of Firm: 9 yrs.
Name: City, State:							<input type="checkbox"/> <\$1 million <input type="checkbox"/> <\$5 million <input type="checkbox"/> <\$10 million <input type="checkbox"/> <\$15 million Age of Firm: yrs.
Name: City, State:							<input type="checkbox"/> <\$1 million <input type="checkbox"/> <\$5 million <input type="checkbox"/> <\$10 million <input type="checkbox"/> <\$15 million Age of Firm: yrs.
Name: City, State:							<input type="checkbox"/> <\$1 million <input type="checkbox"/> <\$5 million <input type="checkbox"/> <\$10 million <input type="checkbox"/> <\$15 million Age of Firm: yrs.

Bradley Road Bridge Over Salt Creek  
CIP No. 13-04

**BIDDER'S PROPOSAL (continued)**

**Exhibit 12-B: Bidder's List of Subcontractor (DBE and Non-DBE) - Part 2**

In accordance with Title 49, Section 26 of the Code of Federal Regulations, the Bidder shall list all subcontractors who provided a quote or bid but were not selected to participate as a subcontractor on this project.

Federal Project Number: **HSIPL 5483(011)**

Subcontractor Name and Location	Line Item & Description	Subcontract Amount	Percentage of Bid Item Sub-contracted	Contractor License Number	DBE (Y/N)	DBE Cert Number	Annual Gross Receipts
				DIR Reg Number			
Name: DEES BURKE ENGINEERING CONSTRUCTORS LLC	105: Concrete Barrier Type 732SW Barrier - Bridge	\$244,400	11%	1012305	Y	43430	<input type="checkbox"/> <\$1 million
City, State:				1000036375			<input type="checkbox"/> <\$5 million
ONTARIO, CA							<input type="checkbox"/> <\$10 million
							<input checked="" type="checkbox"/> <\$15 million
							Age of Firm: 10 yrs.
Name: Penhall Company	53: Bridge Joint Seals	\$163,620	73%	568673	N	N/A	<input type="checkbox"/> <\$1 million
City, State:				1000000860			<input type="checkbox"/> <\$5 million
ANAHEIM, CA							<input type="checkbox"/> <\$10 million
							<input checked="" type="checkbox"/> <\$15 million
							Age of Firm: 68 yrs.
Name: DON H MAHAFFEY DRILLING CO	41: 24" CIDH Piling 42: 90" CIDH Piling	\$2,237,650	88% 80%	139513	Y	43116	<input type="checkbox"/> <\$1 million
City, State:				1000033440			<input type="checkbox"/> <\$5 million
COMPTON, CA							<input type="checkbox"/> <\$10 million
							<input checked="" type="checkbox"/> <\$15 million
							Age of Firm: 79 yrs.
Name: J&E Construction Corporation	33: Rock Blanket 51: MINOR CONCRETE, MINOR STRUCTURE (GRAVITY RETAINING WALL) 51: ROCK SLOPE PROTECTION 52: CONCRETE-ROCK SLOPE PROTECTION 53: ROCK SLOPE PROTECTION FABRIC (Class B) 54: DETECTABLE WARNING SURFACE	\$1,072,296	33: 100% 51: 100% 51: 90% 52: 90% 53: 80% 54: 100%	1112809	Y	52075	<input type="checkbox"/> <\$1 million
City, State:				1001122107			<input checked="" type="checkbox"/> <\$5 million
Chino, CA							<input type="checkbox"/> <\$10 million
							<input type="checkbox"/> <\$15 million
							Age of Firm: 2 yrs.
Name: J&E Construction Corporation	55: MINOR CONCRETE (CURB AND GUTTER) SPANDREL 57: MINOR CONCRETE (DRIVEWAY) 58: MINOR CONCRETE (SIDEWALK) 59: MINOR CONCRETE (CURB RAMP) 70: MINOR CONCRETE (6" THICK ACCESS ROAD AND RAMP, INCLUDES REINFORCEMENT)	See above	55: 99% 56: 95% 57: 99% 58: 100% 59: 100% 70: 99%	See above	Y	See above	<input type="checkbox"/> <\$1 million
City, State:				See above			<input checked="" type="checkbox"/> <\$5 million
Chino, CA							<input type="checkbox"/> <\$10 million
							<input type="checkbox"/> <\$15 million
							Age of Firm: 2 yrs.
Name: P S DEVELOPMENT CORPORATION dba COMET ELECTRIC	78: Bridge Lighting 85: Remove, Salvage, and Replace City of Merced Street Lights 86: Remove City Street Light and Pull Box 113: Modifying Signal and Lighting Systems	\$563,820	78: 100% 85: 100% 86: 90% 113: 100%	347207	N	N/A	<input type="checkbox"/> <\$1 million
City, State:				1000005203			<input type="checkbox"/> <\$5 million
CHATSWORTH, CA							<input type="checkbox"/> <\$10 million
							<input checked="" type="checkbox"/> <\$15 million
							Age of Firm: 30 yrs.

Bradley Road Bridge Over Salt Creek  
CIP No. 13-04

**BIDDER'S PROPOSAL (continued)**

**Exhibit 12-B: Bidder's List of Subcontractor (DBE and Non-DBE) - Part 2**

In accordance with Title 49, Section 26 of the Code of Federal Regulations, the Bidder shall list all subcontractors who provided a quote or bid but were not selected to participate as a subcontractor on this project.

Federal Project Number: **HSIPL 5483(011)**

Subcontractor Name and Location	Line Item & Description	Subcontract Amount	Percentage of Bid Item Sub-contracted	Contractor License Number DIR Reg Number	DBE (Y/N)	DBE Cert Number	Annual Gross Receipts
Name: IN - LINE FENCE & RAILING COMPANY INC dba IN - LINE CONSTRUCTION INC City, State: Ramona, CA	96: Pipe Swing Gate 102: Metal Bridge Railing 103: Tubular Handrailing 104: Cable Railing	\$584,169.64	100% 100% 100% 100%	769516 1000002605	Y	14089	<input type="checkbox"/> <\$1 million <input checked="" type="checkbox"/> <\$5 million <input type="checkbox"/> <\$10 million <input type="checkbox"/> <\$15 million Age of Firm: 27 yrs.
Name: Calmex Engineering, Inc. City, State: Bloomington, CA	36: Hot Mix Asphalt (Type A) 36: Rubberized Hot Mix Asphalt (Gap Graded) 37: Tack Coat 40: Cold Plane Asphalt Concrete Pavement	\$264,310	90% 94% 99% 97%	685954-A 1000005380	N	N/A	<input type="checkbox"/> <\$1 million <input type="checkbox"/> <\$5 million <input type="checkbox"/> <\$10 million <input checked="" type="checkbox"/> <\$15 million Age of Firm: 31 yrs.
Name: Schwager Davis, Inc City, State: San Jose, CA	43: Bridge Prestressing	\$179,371	92%	492582 100005118	N	N/A	<input type="checkbox"/> <\$1 million <input type="checkbox"/> <\$5 million <input type="checkbox"/> <\$10 million <input checked="" type="checkbox"/> <\$15 million Age of Firm: 31 yrs.
Name: IMRAE dba COATMASTERS COATINGS INSTALLATION GROUP City, State:	52: Concrete Surface Texture	\$215,728.70	64%	1009316 1000035256	Y	42556	<input type="checkbox"/> <\$1 million <input checked="" type="checkbox"/> <\$5 million <input type="checkbox"/> <\$10 million <input type="checkbox"/> <\$15 million Age of Firm: 17 yrs.
Name: City, State:							<input type="checkbox"/> <\$1 million <input type="checkbox"/> <\$5 million <input type="checkbox"/> <\$10 million <input type="checkbox"/> <\$15 million Age of Firm: yrs.
Name: City, State:			%				<input type="checkbox"/> <\$1 million <input type="checkbox"/> <\$5 million <input type="checkbox"/> <\$10 million <input type="checkbox"/> <\$15 million Age of Firm: yrs.

## Exhibit 12-B: Bidder's List of Subcontractor (DBE and Non-DBE) - Part 2

In accordance with Title 49, Section 26 of the Code of Federal Regulations, the Bidder shall list all subcontractors who provided a quote or bid but **were not selected** to participate as a subcontractor on this project.

Photocopy this form for additional firms.

FEDERAL PROJECT NUMBER:  
HSIPL 5483(011)

Subcontractor Name & Location	Line Item & Description	Subcontract Amount	Percentage of Bid Item Subcontracted	Contractor License Number DIR Reg Number	DBE (Y/N)	DBE Cert Number	Annual Gross Receipts
NAME	48 STR CONC APPR SLAB	\$19,364.37	11%	533729	N	N/A	< \$1 million
INTEGRITY REBAR PLACERS	50 STR CONC HEADWALL	\$10,075.31	6%				< \$5 million
City, State	54 BAR REINF STEEL BRIDGE	\$864,884.07	82%	1000005302	N	N/A	< \$10 million
PERRIS, CA	55 BAR REINF STEEL RW	\$13,309.35	101%				< \$15 million
	56 BAR REINF STEEL BOX CULV	\$107,876.81	53%				Age of Firm in years
	70 MINOR CONC ACCESS ROAD	\$17,038.77	10%				21
	75 CATCH BASIN NO. 1	\$7,121.65	6%				
NAME	76 MANHOLE NO. 3	\$1,244.99	2%	533729	N	N/A	< \$1 million
INTEGRITY REBAR PLACERS	79 STR CONC JS NO. 1	\$464.09	2%				< \$5 million
City, State	80 STR CONC TS NO. 2	\$5,377.25	9%	1000005302	N	N/A	< \$10 million
PERRIS, CA	81 STR CONC JS RCB TO RCB	\$6,752.39	19%				< \$15 million
	83 STR CONC COLLAR	\$116.16	2%				Age of Firm in years
	105 CONC BARRIER 732 SW	\$62,942.39	19%				21
NAME	48 STR CONC APPR SLAB	\$24,898.00	14%	997880	N	N/A	< \$1 million
PACIFIC STEEL GROUP LLC	50 STR CONC HEADWALL	\$8,604.00	5%				< \$5 million
City, State	54 BAR REINF STEEL BRIDGE	\$1,138,148.00	98%	1000004101	N	N/A	< \$10 million
SAN DIEGO, CA	55 BAR REINF STEEL RW	\$12,809.00	87%				< \$15 million
	56 BAR REINF STEEL BOX CULV	\$103,991.00	60%				Age of Firm in years
	70 MINOR CONC ACCESS ROAD	\$8,888.00	5%				11
	79 STR CONC JS NO. 1	\$778.00	4%				
NAME	81 STR CONC JS RCB TO RCB	\$3,235.00	9%	997880	N	N/A	< \$1 million
PACIFIC STEEL GROUP LLC	105 CONC BARRIER 732 SW	\$61,401.00	18%				< \$5 million
City, State				1000004101	N	N/A	< \$10 million
SAN DIEGO, CA							< \$15 million
							Age of Firm in years
							11
NAME	48 STR CONC APPR SLAB	\$43,900.00	24%	998917	Y	42683	< \$1 million
LA STEEL SERVICES INC.	50 STR CONC HEADWALL	\$10,900.00	6%				< \$5 million
City, State	54 BAR REINF STEEL BRIDGE	\$1,226,650.00	106%	1000391496	Y	42683	< \$10 million
CORONA, CA	55 BAR REINF STEEL RW	\$16,000.00	122%				< \$15 million
	56 BAR REINF STEEL BOX CULV	\$131,200.00	832%				Age of Firm in years
	70 MINOR CONC ACCESS ROAD	\$20,350.00	11%				10
	75 CATCH BASIN NO. 1	\$13,650.00	12%				
NAME	76 MANHOLE NO. 3	\$950.00	1%	998917	Y	42683	< \$1 million
LA STEEL SERVICES INC.	79 STR CONC JS NO. 1	\$250.00	1%				< \$5 million
City, State	80 STR CONC TS NO. 2	\$6,860.00	11%	1000391496	Y	42683	< \$10 million
CORONA, CA	81 STR CONC JS RCB TO RCB	\$8,800.00	24%				< \$15 million
	83 STR CONC COLLAR	\$80.00	1%				Age of Firm in years
	105 CONC BARRIER 732 SW	\$74,508.00	22%				10
NAME	48 STR CONC APPR SLAB	\$42,071.00	23%	218839	N	N/A	< \$1 million
CAMBLIN STEEL SERVICE INC	50 STR CONC HEADWALL	\$5,117.00	3%				< \$5 million
City, State	54 BAR REINF STEEL BRIDGE	\$1,030,801.00	89%	1000003852	N	N/A	< \$10 million
ROSEVILLE, CA	55 BAR REINF STEEL RW	\$11,475.00	87%				< \$15 million
	56 BAR REINF STEEL BOX CULV	\$97,996.00	622%				Age of Firm in years
	70 MINOR CONC ACCESS ROAD	\$15,109.00	9%				17
	79 STR CONC JS NO. 1	\$666.00	3%				
NAME	80 STR CONC TS NO. 2	\$4,897.00	8%	218839	N	N/A	< \$1 million
CAMBLIN STEEL SERVICE INC	81 STR CONC JS RCB TO RCB	\$14,478.00	4%				< \$5 million
City, State	105 CONC BARRIER 732 SW	\$31,758.00	9%	1000003852	N	N/A	< \$10 million
ROSEVILLE, CA	113 MODIFY SIGNAL & LIGHT	\$4,491.00	3%				< \$15 million
	119 12" WATER MAIN	\$3,802.00	1%				Age of Firm in years
	120 24" WATER MAIN	\$3,802.00	0%				17
	121 18" RECYCLED WATER	\$3,802.00	1%				
NAME							< \$1 million
							< \$5 million
City, State							< \$10 million
							< \$15 million
							Age of Firm in years

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**Exhibit 12-B: Bidder's List of Subcontractor (DBE and Non-DBE) - Part 2**

In accordance with Title 49, Section 26 of the Code of Federal Regulations, the Bidder shall list all subcontractors who provided a quote or bid but **were not selected** to participate as a subcontractor on this project.

Photocopy this form for additional firms.

FEDERAL PROJECT NUMBER:  
HSIPL 5483(011)

Subcontractor Name & Location		Line Item & Description	Subcontract Amount	Percentage of Bid Item Subcontracted	Contractor License Number	DBE (Y/N)	DBE Cert Number	Annual Gross Receipts	
					DIR Reg Number				
NAME		48 STR CONC APPR SLAB	\$63,518.00	30%	778010	N	N/A	<input type="checkbox"/>	< \$1 million
CMC STEEL FABRICATORS, INC. DBA		50 STR CONC HEADWALL	\$6,478.00	4%				<input type="checkbox"/>	< \$5 million
CMC REBAR		64 BAR REINF STEEL BRIDGE	\$1,247,322.00	107%				<input type="checkbox"/>	< \$10 million
City, State		55 BAR REINF STEEL RW	\$11,988.00	91%				<input type="checkbox"/>	< \$15 million
		55 BAR REINF STEEL BOX CULV	\$98,410.00	924%					
SAN DIEGO, CA		70 MINOR CONC ACCESS ROAD	\$19,020.00	11%	1000000298			Age of Firm in years	89
		75 CATCH BASIN NO. 1	\$4,115.00	4%					
NAME		78 MANHOLE NO. 3	\$1,873.00	3%	778010	N	N/A	<input type="checkbox"/>	< \$1 million
CMC STEEL FABRICATORS, INC. DBA		79 STR CONC JS NO. 1	\$1,077.00	5%				<input type="checkbox"/>	< \$5 million
CMC REBAR		80 STR CONC TS NO. 2	\$6,192.00	10%				<input type="checkbox"/>	< \$10 million
City, State		81 STR CONC JS RCB TO RCB	\$4,342.00	12%				<input type="checkbox"/>	< \$15 million
		83 STR CONC COLLAR	\$228.00	4%					
SAN DIEGO, CA		105 CONC BARRIER 732 SW	\$68,604.00	17%	1000000298			Age of Firm in years	89
		119 12" WATER MAIN	\$3,842.00	1%					
NAME		120 24" WATER MAIN	\$3,842.00	1%	778010	N	N/A	<input type="checkbox"/>	< \$1 million
CMC STEEL FABRICATORS, INC. DBA		121 18" RECYCLED WATER	\$3,842.00	1%				<input type="checkbox"/>	< \$5 million
CMC REBAR				<input type="checkbox"/>				< \$10 million	
City, State				<input type="checkbox"/>				< \$15 million	
SAN DIEGO, CA					1000000298			Age of Firm in years	89
NAME		48 STR CONC APPR SLAB	\$25,383.51	14%	1127976	Y	52725	<input type="checkbox"/>	< \$1 million
GALVAN REINFORCING COMPANY		50 STR CONC HEADWALL	\$8,017.22	5%				<input checked="" type="checkbox"/>	< \$5 million
City, State		54 BAR REINF STEEL BRIDGE	\$1,519,389.49	131%				<input type="checkbox"/>	< \$10 million
		55 BAR REINF STEEL RW	\$15,949.12	121%				<input type="checkbox"/>	< \$15 million
		56 BAR REINF STEEL BOX CULV	\$139,281.91	865%					
RIVERSIDE, CA		70 MINOR CONC ACCESS ROAD	\$23,494.25	13%	2000006135			Age of Firm in years	1
		75 CATCH BASIN NO. 1	\$14,579.42	13%					
NAME		79 STR CONC JS NO. 1	\$1,005.19	5%	1127976	Y	52725	<input type="checkbox"/>	< \$1 million
GALVAN REINFORCING COMPANY		80 STR CONC TS NO. 2	\$6,420.22	11%				<input checked="" type="checkbox"/>	< \$5 million
City, State		81 STR CONC JS RCB TO RCB	\$1,898.80	5%				<input type="checkbox"/>	< \$10 million
		105 CONC BARRIER 732 SW	\$48,886.29	14%				<input type="checkbox"/>	< \$15 million
		113 MODIFY SIGNAL & LIGHT	\$6,982.59	4%					
RIVERSIDE, CA		119 12" WATER MAIN	\$4,495.27	1%	2000006135			Age of Firm in years	1
		120 24" WATER MAIN	\$4,495.27	1%					
NAME		121 18" RECYCLED WATER	\$4,495.27	1%	1127976	Y	52725	<input type="checkbox"/>	< \$1 million
GALVAN REINFORCING COMPANY				<input checked="" type="checkbox"/>				< \$5 million	
City, State				<input type="checkbox"/>				< \$10 million	
				<input type="checkbox"/>				< \$15 million	
RIVERSIDE, CA					2000006135			Age of Firm in years	1
NAME								<input type="checkbox"/>	< \$1 million
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