

**KERN COUNTY HOSPITAL AUTHORITY
ADDITIONAL TERMS AND CONDITIONS FOR AGREEMENTS THAT MEET THE REQUIREMENTS
OF THE CALIFORNIA LABOR CODE**

- 1. DOCUMENT 00700 – GENERAL CONDITIONS**
- 2. DOCUMENT 00738 – APPRENTICESHIP PROGRAM**

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GENERAL CONDITIONS

ARTICLE 1 - INTERPRETATION OF CONTRACT DOCUMENTS

1.01 Interpretation Of Documents

- A. Contract Documents are complementary; what is called for by one is as binding as if called for by all.
- B. Individual Contract Documents subdivide at first level into Articles, and then into paragraphs.

1.02 Order Of Precedence Of Documents

- A. In the case of discrepancy or ambiguity in the Contract Documents, the following order of precedence shall prevail:
 - 1. Modifications in inverse chronological order (i.e., most recent first), and in the same order as specific portions they are modifying;
 - 2. Agreement Forms (Document 00500), and terms and conditions referenced therein;
 - 3. Supplementary General Conditions, if included;
 - 4. General Conditions (Document 00700);
 - 5. Division 1 Specifications, if included;
 - 6. Drawings and Technical Specifications (Division 2 and above);
 - 7. Written numbers over figures, unless obviously incorrect;
 - 8. Figured dimensions over scaled dimensions;
 - 9. Large-scale Drawings over small-scale Drawings.
- B. Any conflict between Drawings and Technical Specifications (Division 2 and above) will be resolved in favor of the document of the latest date (i.e., the most recent document), and if the dates are the same or not determinable, then in favor of Specifications.
- C. Any conflict between a bill or list of materials shown in the Contract Documents and the actual quantities required to complete Work required by Contract Documents, will be resolved in favor of the actual quantities.
- D. All Technical Specifications included in the Project manual shall be included within the Contract Documents unless identified otherwise.

ARTICLE 2 - PRE-BID INVESTIGATIONS

2.01 Pre-Bid Investigations Required

- A. Prior to and as a condition of submitting a Bid and executing Document 00500 (Agreement), Contractor shall investigate fully the Work of the Contract. Contractor shall visit the Site, examine thoroughly and understand fully the nature and extent of the Contract Documents, Work, Site, locality, actual conditions and as-built conditions.
- B. During performance of the Contract, Contractor will be charged with knowledge of all information that it should have learned in performing these pre-bid investigations and other obligations, and shall not be entitled to Change Orders (time or compensation) due to any information, error, inconsistency, omission, or conditions that Contractor should have known as a part of this Work. Contractor shall be responsible for the resultant losses, including, without limitation, the cost of correcting Defective Work.

2.02 Limited Reliance Permitted On Owner's Existing Conditions Data

- A. Regarding aboveground and as-built conditions shown on the Contract Documents or supplied by Owner, such information has been compiled in good faith, however, Owner does not expressly or impliedly warrant or represent that such information is correctly shown or indicated, or otherwise complete for construction purposes. Contractor must independently verify such information as part of its pre-bid investigations, and where conditions are not reasonably verifiable or discrepancies are identified, bring such matters to Owner's attention through written question issued during the bid period. In executing Document 00500 (Agreement), Contractor shall rely on the results of its own independent investigation and shall not rely on Owner-supplied information

regarding aboveground conditions and as-built conditions, and Contractor shall accept full responsibility for its verification work sufficient to complete the Work as intended.

- B. Regarding subsurface conditions other than Underground Facilities shown on the Contract Documents or otherwise supplied by Owner, Contractor may rely only upon the general accuracy of actual reported depths, actual reported character of materials, actual reported soil types, actual reported water conditions, or actual obstructions shown or indicated in the Contract Documents. Owner is not responsible for the completeness of any subsurface condition information, Contractor's conclusions or opinions drawn from any subsurface condition information, or subsurface conditions that are not specifically shown. (For example, Owner is not responsible for soil conditions in areas contiguous to areas where a subsurface condition is shown.)

2.03 Pre-Bid Investigation Requirements For Excavation And Utilities Relocation Projects

- A. As part of its pre-bid investigations for Projects involving excavation and/or relocation of existing utilities, Contractor shall verify information regarding Underground Facilities, including but not limited to, requesting additional information or verification of information as necessary.
- B. Because of the nature and location of the Project, the existence of Underground Facilities is deemed inherent in the Work of the Contract, as is the fact that Underground Facilities are not always accurately shown or completely shown on as-built records, both as to their depth and location. Contractor shall, therefore, take care to note the existence and potential existence of Underground Facilities, in particular, above and below grade structures, drainage lines, storm drains, sewers, water, gas, electrical, chemical, hot water, and other similar items and utilities. Contractor shall carefully consider all supplied information, request additional information Contractor may deem necessary, and visually inspect the Site for above ground indications of Underground Facilities (such as, for example not by way of limitation, the existence of existing service laterals, appurtenances or other types of utilities, indicated by the presence of an underground transmission main or other visible facilities, such as buildings, new asphalt, meters and junction boxes, on or adjacent to the Site). Contractor shall also consider local underground conditions and typical practices for Underground Facilities, either through its own direct knowledge or through its subcontractors, and fully consider this knowledge in assessing the existing information and the reasonableness of its reliance.

ARTICLE 3 - SUBCONTRACTORS

3.01 Subcontractor Listing Law

- A. Contractor shall comply with the Subcontractor Listing law, California Public Contract Code §§4101 et seq. Contractor shall not substitute any other person or firm in place of any Subcontractor listed in the Bid except as may be allowed by law.
- B. Subcontractors shall not assign or transfer their subcontracts or permit them to be performed by any other contractor without Owner's written approval. At Owner's request, Contractor shall provide Owner with a complete copy of all executed subcontracts or final commercial agreements with Subcontractors and/or suppliers.

3.02 Subcontracts

- A. Subcontract agreements shall preserve and protect the rights of Owner under the Contract Documents so that subcontracting will not prejudice such rights. To the extent of the Work to be performed by a Subcontractor, Contractor shall require the Subcontractor's written agreement (1) to be bound to the terms of Contract Documents and (2) to assume all the obligations and responsibilities that Contractor assumes toward Owner under the Contract Documents. (These agreements include for example, and not by way of limitation, all warranties, claims procedures and rules governing submittals of all types to which Contractor is subject under the Contract Documents.)
- B. Contractor shall provide for the assignment to Owner of all rights any Subcontractor (of any tier) may have against any manufacturer, supplier, or distributor for breach of warranties and guarantees relating to the Work performed by the Subcontractor under the Contract Documents. Subcontracts shall provide and acknowledge Owner as an intended third-party beneficiary of each subcontract and supply contract (of any tier).

ARTICLE 4 - DRAWINGS AND SPECIFICATIONS

4.01 Intent Of Drawings And Specifications

- A. Contractor shall interpret words or phrases used to describe Work (including services), materials, or equipment that have well-known technical or construction industry or trade meaning in accordance with that meaning. Drawings' intent specifically includes the intent to depict construction that complies with all applicable laws, codes and standards.
- B. As part of the "Work," Contractor shall provide all labor, materials, equipment, machinery, tools, facilities, services, employee training and testing, hoisting facilities, Shop Drawings, storage, testing, security, transportation, disposal, the securing of all necessary or required field dimensions, the cutting or patching of existing materials, notices, permits, documents, reports, agreements and any other items required or necessary to timely and fully complete Work described and the results intended by Contract Documents and, in particular, Drawings and Specifications. Divisions and Specification Sections and the identification on any Drawings shall not control Contractor in dividing Work among Subcontractors or suppliers or delineating the Work to be performed by any specific trade.
- C. Contractor shall perform reasonably implied parts of Work as "incidental work" although absent from Drawings and Specifications. Incidental work includes any work not shown on Drawings or described in Specifications that is necessary or normally or customarily required as a part of the Work shown on Drawings or described in Specifications. Incidental work includes any work necessary or required to make each installation satisfactory, legally operable, functional, and consistent with the intent of Drawings and Specifications or the requirements of Contract Documents. Contractor shall perform incidental work without extra cost to Owner. Incidental work shall be treated as if fully described in Specifications and shown on Drawings, and the expense of incidental work shall be included in price Bid and Contract Sum.

4.02 Checking Of Drawings And Specifications

- A. Before undertaking each part of Work, Contractor shall carefully study and compare Contract Documents and check and verify pertinent figures shown in the Contract Documents and all applicable field measurements. Contractor shall be responsible for any errors that might have been avoided by such comparison. Figures shown on Drawings shall be followed; Contractor shall not scale measurements. Contractor shall promptly report to Owner, in writing, any conflict, error, ambiguity or discrepancy that Contractor may discover. Contractor shall obtain a written interpretation or clarification from Owner before proceeding with any Work affected thereby. .

4.03 Interpretation Of Drawings And Specifications

- A. A typical or representative detail on Drawings shall constitute the standard for workmanship and material throughout corresponding parts of Work. Where necessary, and where reasonably inferable from Drawings, Contractor shall adapt such representative detail for application to such corresponding parts of Work. The details of such adaptation shall be subject to prior approval by Owner. Repetitive features shown in outline on Drawings shall be in exact accordance with corresponding features completely shown.
- B. Should any discrepancy appear or any misunderstanding arise as to the import of anything contained in Drawings and Specifications, or should Contractor have any questions or requests relating to Drawings or Specifications, Contractor shall refer the matter to Owner, in writing, with a copy to the Architect/Engineer, where applicable. Owner will issue with reasonable promptness written responses, clarifications or interpretations as Owner may determine necessary, which shall be consistent with the intent of and be reasonably inferable from Contract Documents. Such written clarifications or interpretations shall be binding upon Contractor. If Contractor believes that a written response, clarification or interpretation justifies an adjustment in the Contract Sum or Contract Time, Contractor shall give Owner prompt written notice. If the parties are unable to agree to the amount or extent of the adjustment, if any, then Contractor shall perform the Work in conformance with Owner's response, clarification, or interpretation and may make a written claim for the adjustment as provided in Article 12.
- C. The following general specifications shall apply wherever in the Specifications, or in any directions given by Owner in accordance with or supplementing Specifications, it is provided that

Contractor shall furnish materials or manufactured articles or shall do Work for which no detailed specifications are shown. Materials or manufactured articles shall be of the best grade, in quality and workmanship, obtainable in the market from firms of established good reputation. If not ordinarily carried in stock, the materials or manufactured articles shall conform to industry standards for first class materials or articles of the kind required, with due consideration of the use to which they are to be put. Work shall conform to the usual standards or codes, such as those cited herein, for first class work of the kind required. Contractor shall specify in writing to Owner the materials to be used or Work to be performed under this Paragraph ten Working Days prior to furnishing such materials or performing such Work.

4.04 Use Of Drawings And Specifications.

- A. Drawings, Specifications and other Contract Documents were prepared for use for Work of Contract Documents only. No part of Contract Documents shall be used for any other construction or for any other purpose except with the written consent of Owner. Any unauthorized use of Contract Documents is prohibited and at the sole liability of the user.

4.05 Standard Specifications.

- A. Standard Specifications refers to the most recent edition of the Standard Specifications of the State of California, Business and Transportation Agency, Department of Transportation.
- B. In case of conflict between the Standard Specifications and these General Conditions or the Division 1 Specifications, the General Conditions and Division 1 Specifications shall take precedence over and be used in lieu of the conflicting provisions of the Standard Specifications.

ARTICLE 5 - COMMENCEMENT OF THE WORK

5.01 Submission Of Required Schedules

- A. Contractor shall submit to Owner in draft for review and discussion at the Preconstruction Conference, and in final prior to the first payment application, the following schedules:
 - 1. Schedule of Values
 - 2. Critical Path Method Construction Schedule
 - 3. Schedule of Submittals.
- B. No progress payment shall be due or owing to Contractor until such schedules are submitted to and acceptable to Owner and/or Architect/Engineer as meeting the requirements of the Contract Documents. In Owner's sole discretion, Owner may elect to instead withhold a portion of any progress payment for unacceptable compliance with contract requirements for such schedules.
- C. Owner's acceptance of Contractor's schedules will not create any duty of care or impose on Owner any responsibility for the sequencing, scheduling or progress of Work nor will it interfere with or relieve Contractor from Contractor's full responsibility therefore.

5.02 Commencement Date Of Contract Time

- A. The Contract Time will commence ten (10) Working Days following execution of the Agreement by the Board of Supervisors , if a Notice to Proceed is given, on the date indicated in the Notice to Proceed.

ARTICLE 6 - CONTRACTOR'S ORGANIZATION AND EQUIPMENT

6.01 Contractor's Legal Address

- A. Address, facsimile number, and email address given in Contractor's Bid are hereby designated as Contractor's legal address, facsimile number, and email address. Contractor may change its legal address, facsimile number, and email address by notice in writing, delivered to Owner, which in conspicuous language advises Owner of a change in legal address, facsimile number, or email address, and which Owner accepts in writing. Delivery to Contractor's legal address or depositing in any post office or post office box regularly maintained by the United States Postal Service, in a wrapper with postage affixed, directed to Contractor at legal address, or of any

drawings, notice, letter or other communication, shall be deemed legal and sufficient service thereof upon Contractor. Facsimile or email to Contractor's designated facsimile number or email address of any letter, memorandum, or other communication on standard or legal sized paper, with proof of facsimile transmission or email confirmation, shall be deemed legal and sufficient service thereof upon Contractor.

6.02 Contractor's Superintendents Or Forepersons

- A. Contractor shall at all times be represented on Site by one or more superintendents or forepersons authorized and competent to receive and carry out any instructions that Owner may give, and shall be liable for faithful observance of instructions delivered to Contractor or to authorized representative or representatives on Site. The Superintendent shall not be changed except with the consent of the KCHA unless the Superintendent proves to be unsatisfactory to the Contractor and ceases to be in its' employ. If the Superintendent proves to be unsatisfactory to Owner, they shall be replaced within ten (10) Calendar Days after written notice from Owner to Contractor.

6.03 Proficiency In English

- A. Supervisors, security guards, safety personnel and employees who have unescorted access to the Site shall possess proficiency in the English language in order to understand, receive and carry out oral and written communications or instructions relating to their job functions, including safety and security requirements.

6.04 Contractor's And Subcontractors' Employees

- A. Contractor shall employ, and shall permit its Subcontractors to employ, only competent and skillful personnel to do Work. If Owner notifies Contractor that any of its employees, or any of its Subcontractors' employees on Work is incompetent, unfaithful, disorderly or profane, or fails to observe customary standards of conduct or refuses to carry out any provision of the Contract Documents, or uses threatening or abusive language to any person on Work representing Owner, or violates sanitary rules, or is otherwise unsatisfactory, and if Owner requests that such person be discharged from Work, then Contractor or its Subcontractor shall immediately discharge such person from Work and the discharged person shall not be re-employed on the Work except with consent of Owner.

6.05 Contractor's Use Of The Site

- A. Contractor shall not make any arrangements with any person to permit occupancy or use of any land, structure or building within the limits of the Work, for any purpose whatsoever, either with or without compensation, in conflict with any agreement between Owner and any Owner, former Owner or tenant of such land, structure or buildings. Contractor may not occupy Owner-owned property outside the limit of the Work as indicated on the Drawings unless it obtains prior approval from Owner.

ARTICLE 7 - OWNER'S ADMINISTRATION OF WORK

7.01 Owner's Representative(s)

- A. Owner's Representative(s) will have limited authority to act on behalf of Owner as set forth in the Contract Documents.
- B. Except as otherwise provided in these Contract Documents or subsequently identified in writing by Owner, Owner will issue all communications to Contractor through Owner's Representative, and Contractor shall issue all communications to Owner through Owner's Representative in a written document delivered to Owner.
- C. Should any direct communications between Contractor and Owner's consultants, architects or engineers not identified in Article 2 of Document 00500 (Agreement) occur during field visits or by telephone, Contractor shall immediately confirm them in a written document copied to Owner.

7.02 Owner's Observation Of The Work

- A. Work shall be performed under Owner's general observation and administration. Contractor shall comply with Owner's directions and instructions in accordance with the terms of Contract Documents, but nothing contained in these General Conditions shall be taken to relieve Contractor of any obligations or liabilities under the Contract Documents. Owner's failure to review or, upon review, failure to object to any aspect of Work reviewed, shall not be deemed a waiver or approval of any non-conforming aspect of Work.
- B. Subject to those rights specifically reserved in the Contract Documents, Owner will not supervise, or direct, or have control over, or be responsible for, Contractor's means, methods, techniques, sequences or procedures of construction, or the safety precautions and programs incident thereto, or Contractor's failure to comply with laws and regulations applicable to the furnishing or performance of Work. Owner will not be responsible for Contractor's failure to perform or furnish the Work in accordance with Contract Documents.

7.03 Architect/Engineer's Observation Of Work

- A. Owner may engage an Architect/Engineer, an independent consultant or Project Manager (collectively for purposes of this Paragraph, "Project Manager/Architect") to assist in administering the Work. If so engaged, Project Manager/Architect will advise and consult with Owner, but will have authority to act on behalf of Owner only to the extent provided in the Contract Documents or as set forth in writing by Owner. Project Manager/Architect will not be responsible for and will not have control or charge of construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with Work. Project Manager/Architect will not be responsible for or have control over the acts or omissions of Contractor, Subcontractors or their agents or employees, or any other persons performing Work.
- B. Project Manager/Architect may review Contractor's Submittals, such as Shop Drawings, Product Data, and Samples, but only for conformance with design concept of Work and with information given in the Contract Documents.
- C. Project Manager/Architect may visit the Site at intervals appropriate to stage of construction to become familiar generally with the progress and quality of Work and to determine in general if Work is proceeding in accordance with Contract Documents. Based on its observations, Project Manager/Architect may recommend to Owner disapproval or rejection of Work that Project Manager/Architect believes to be Defective or will not produce a complete Project that conforms to Contract Documents or will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated by Contract Documents. Owner will also have authority to require special inspection or testing of Work, whether or not the Work is fabricated, installed or completed.

7.04 Owner's And Architect/Engineer's Exercise Of Contract Responsibilities

- A. Owner, Project Manager, Architect/Engineer and all Owner's representatives, in performing their duties and responsibilities under the Contract Documents, accept no duties, responsibilities or duty of care, nor may the same be implied or inferred, towards Contractor, any Subcontractor, sub-Subcontractor or supplier, except those set forth expressly in the Contract Documents.

7.05 Owner's Right Of Access To The Work

- A. During performance of Work, Owner and its agents, consultants, and employees may at any time enter upon Work, shops or studios where any part of the Work may be in preparation, or factories where any materials for use in Work are being or are to be manufactured, and Contractor shall provide proper and safe access and facilities for this purpose, and shall make arrangements with manufacturers to facilitate inspection of their processes and products to such extent as Owner's interests may require. Other contractors performing work for Owner may also enter upon Work for all purposes required by their respective contracts. Subject to the rights reserved in the Contract Documents, Contractor shall have sole care, custody, and control of the Site and its Work areas.

7.06 Owner's Right Of Separate Construction

- A. Owner may perform with its own forces, construction or operations related to the Project, or the Site during Contractor's operations. Owner may also award separate contracts in connection with

other portions of the Project or other construction or operations, on the Site or areas contiguous to the Site, under conditions similar to these Contract Documents, or may have utility Owners perform other work.

- B. Contractor shall adjust its schedule and fully coordinate with and shall afford all other contractors, utility districts and Owner (if Owner is performing work with its own forces), proper and safe access to the Site, and reasonable opportunity for the installation and storage of their materials. Contractor shall ensure that the execution of its Work properly connects and coordinates with others' work, do all cutting, fitting and patching of the Work that may be required to make its several parts come together properly and integrate with such other work, and shall cooperate with them to facilitate the progress of the Work.
- C. To the extent that any part of Contractor's Work is to interface with work performed or installed by other contractors or utility owners, Contractor shall inspect and measure the in-place work. Contractor shall promptly report to Owner in writing any defect in in-place work that will impede or increase the cost of Contractor's interface unless corrected.

ARTICLE 8 - CONTRACTOR'S PROSECUTION AND PROGRESS OF THE WORK

8.01 Contractor To Supervise The Work

- A. Subject to those rights specifically reserved in the Contract Documents, Contractor shall supervise, direct, have control over, and be responsible for, Contractor's means, methods, techniques, sequences or procedures of construction, safety precautions and programs incident thereto, and compliance with laws and regulations applicable to the furnishing or performance of Work.
- B. Contractor shall keep on the Site at all times during Work progress a competent resident Superintendent, who shall not be replaced without Owner's express written consent. The Superintendent shall be Contractor's representative at the Site and shall have complete authority to act on behalf of Contractor. All communications to and from the Superintendent shall be as binding as if given to or by Contractor.
- C. Contractor shall supervise, inspect, and direct Work competently and efficiently, devoting the attention and applying such personal skills and expertise as may be required and necessary to perform Work in accordance with Contract Documents. Contractor shall be solely responsible for and have control and charge of construction means, methods, techniques, sequences and procedures, safety precautions and programs in connection with the Work. Contractor shall be responsible to see that the completed Work complies accurately with Contract Documents.
- D. Contractor is fully responsible for Contractor's own acts and omissions. Contractor is responsible for all acts and omissions of its Subcontractors, suppliers, and other persons and organizations performing or furnishing any of the Work, labor, materials, or equipment under a direct or indirect contract with Contractor.
- E. Contractor shall conduct monthly Contractor Safety Committee meetings, and weekly toolbox safety talks.

8.02 Contractor To Maintain Cost Data

- A. Contractor shall maintain full and correct information as to the number of workers employed in connection with each subdivision of Work, the classification and rate of pay of each worker in form of certified payrolls, the cost to Contractor of each class of materials, tools and appliances used by Contractor in Work, and the amount of each class of materials used in each subdivision of Work. Contractor shall provide summaries or reports comparing actual Project costs with Bid estimates or budgets, upon Owner's request.
- B. Contractor shall maintain daily job reports recording all significant activity on the job, including the number of workers on Site, Work activities, problems encountered and delays. Contractor shall provide Owner with copies for each Day Contractor works on the Project, to be delivered to Owner either the same Day or the following morning before starting work at the Site. Contractor shall take pre-construction and monthly progress photographs of all areas of the Work. Contractor shall maintain copies of all correspondence with Subcontractors and records of meetings with Subcontractors.

- C. Owner shall have the right to audit and copy Contractor's books and records of any type, nature or description relating to the Project (including but not limited to financial records reflecting in any way costs claimed on the Project), and to inspect the Site, including Contractor's trailer, or other job Site office, and this requirement shall be contained in the subcontracts of Subcontractors working on Site. By way of example, Owner shall have the right to inspect and obtain copies of all Contract Documents, planning and design documents, Bid proposal and negotiation documents, cost records and job cost variance reports, design modification proposals, value engineering or other cost reduction proposals, revisions made to the original design, job progress reports, photographs, and as-built drawings maintained by Contractor. Owner and any other applicable governmental entity shall have the right to inspect all information and documents maintained hereunder at any time during the Project and for a period of five years following Final Completion, in accordance with the provisions of Section 8546.7 of the California Government Code. This right of inspection shall not relieve Contractor of its duties and obligations under the Contract Documents. This right of inspection shall be specifically enforceable in a court of law, either independently or in conjunction with enforcement of any other rights in the Contract Documents.

8.03 Contractor To Supply Sufficient Workers And Materials

- A. Unless otherwise required by Owner under the terms of Contract Documents, Contractor shall at all times keep on the Site materials and employ qualified workers sufficient to prosecute Work at a rate and in a sequence and manner necessary to complete Work within the Contract Time. This obligation shall remain in full force and effect notwithstanding disputes or claims of any type.

8.04 Contractor To Maintain Project Record Documents

- A. Contractor shall maintain in a safe place at the Site one record copy of all Drawings, Specifications, Addenda, Contract Modifications, Change Orders, Work Directives, Force Account orders, and written interpretations and clarifications in good order and annotated to show all as-built changes made during construction. These Project Record Documents, together with all approved Samples and a counterpart of all approved Shop Drawings, shall be maintained and available to Owner for reference. Upon completion of the Work, Contractor shall deliver to Owner, the Project Record Documents, Samples and Shop Drawings and as-built drawings.
- B. Throughout Contractor's performance of the Work of the Project, Contractor shall maintain construction records to include: shop drawings; product data/material data sheets; samples; submittal; purchases; materials; equipment; inspections; applicable handbooks; applicable codes and standards; maintenance and operating manuals and instructions; RFI Log; Submittal Log; other related documents and revisions which arise out of the Construction Contracts. Contractor shall maintain records of principal building layout lines, elevations for the bottom of footings, floor levels, and key site elevations (certified by a qualified surveyor or professional engineer). Contractor shall make all records available to Owner. At the completion of the Project, Contractor shall deliver all such records to the Owner to have a complete set of record as-built drawings.

8.05 Contractor To Not Disrupt Owner Operation

- A. Contractor shall schedule and execute all Work in a manner that does not interfere with or disrupt Owner operations, including but not limited to, parking, utilities (electricity, gas, water), noise, access by employees and administration, access by vendors, physicians, patients and any other person or entity using Owner facilities or doing business with Owner. Contractor shall produce and supply coordination plans and requests to Owner, following Owner procedures, for all necessary interference of construction with Owner, which Owner will reasonably cooperate with.

8.06 Contractor To Provide Temporary Facilities And Controls

- A. Unless expressly provided otherwise in the Contract Documents, Contractor shall provide all temporary utilities (including without limitation electricity, water, natural gas), lighting, heating, cooling and ventilating devices, telephone, sanitary facilities, barriers, fences and enclosures, tree and plant protection, fire protection, pollution, erosion, Storm Water Pollution Prevention controls, noise and traffic control, and any other necessary services required for construction, testing or completion of the Work.

ARTICLE 9 - WARRANTY, GUARANTY, AND INSPECTION OF WORK

9.01 Warranty And Guaranty

- A. General Representations and Warranties: Contractor represents and warrants that it is and will be at all times fully qualified and capable of performing every Phase of the Work and to complete Work in accordance with the terms of Contract Documents. Contractor warrants that all construction services shall be performed in accordance with generally accepted professional standards of good and sound construction practices and all requirements of the Contract Documents. Contractor warrants that Work, including but not limited to each item of materials and equipment incorporated therein, shall be new, of suitable grade of its respective kind for its intended use, and free from defects in design, engineering, materials, construction and workmanship. Contractor warrants that Work shall conform in all respects with all applicable requirements of federal, state and local laws, applicable construction codes and standards, licenses, and permits, Drawings and Specifications and all descriptions set forth therein, and all other requirements of Contract Documents. .
- B. Extended Guarantees: Any guarantee exceeding one year provided by the supplier or manufacturer of any equipment or materials used in the Project shall be extended for such term. Contractor shall supply Owner with all warranty and guarantee documents relative to equipment and materials incorporated in the Project and guaranteed by their suppliers or manufacturers.
- C. Environmental and Toxics Warranty: The covenants, warranties and representations contained in this Paragraph are effective continuously during Contractor's Work on the Project and following cessation of labor for any reason including, but not limited to, Project completion. Contractor covenants, warrants and represents to Owner that:
 - 1. To Contractor's knowledge after due inquiry, no lead or Asbestos-containing materials were installed or discovered in the Project at any time during Contractor's construction thereof. If any lead or Asbestos-containing materials were discovered, Contractor made immediate written disclosure to Owner.
 - 2. To Contractor's knowledge after due inquiry, no electrical transformers, light fixtures with ballasts or other equipment containing PCBs are or were located on the Project at any time during Contractor's construction thereof. If any such materials were discovered, Contractor made immediate written disclosure to Owner.
 - 3. To Contractor's knowledge after due inquiry, no storage tanks for gasoline or any other toxic substance are or were located on the Project at any time during Contractor's construction thereof. If any such materials were discovered, Contractor made immediate written disclosure to Owner.
 - 4. Contractor's operations concerning the Project are and were not in violation of any applicable environmental federal, state, or local statute, law or regulation dealing with hazardous materials substances or toxic substances and no notice from any governmental body has been served upon Contractor claiming any violation of any such law, ordinance, code or regulation, or requiring or calling attention to the need for any Work, repairs, construction, alteration, or installation on or in connection with the Project in order to comply with any such laws, ordinances, codes, or regulations, with which Contractor has not complied. If there are any such notices with which Contractor has complied, Contractor shall provide Owner with copies thereof.

9.02 Inspection Of Work

- A. Work and materials, and manufacture and preparation of materials, from beginning of construction until Final Completion and acceptance of Work, shall be subject to inspection and rejection by Owner, its agents, representatives or independent contractors retained by Owner to perform inspection services, or governmental agencies with jurisdictional interests. Contractor shall provide them proper and safe conditions for such access and advise them of Contractor's Site safety procedures and program so that they may comply therewith as applicable. Upon request or where specified, Owner shall be afforded access for inspection at the source of supply, manufacture or assembly of any item of material or equipment, with reasonable accommodations supplied for making such inspections.

- B. Contractor shall furnish, in such quantities and sizes as may be required for proper examination and tests, Samples or test specimens of all materials to be used or offered for use in connection with Work, in addition to tests and submittals required in the individual material or equipment specification sections. Contractor shall prepare Samples or test specimens at its expense and furnish them to Owner. Contractor shall submit all Samples in ample time to enable Owner to make any necessary tests, examinations, or analyses before the time it is desired to incorporate the material into the Work.
- C. Contractor shall give Owner no less than 48 hours notice of readiness of Work for all required inspections, tests or approvals, and shall cooperate with inspection and testing personnel to facilitate required inspections or tests.
- D. If applicable laws or regulations of any authority having jurisdiction require any Work (or part thereof) specifically to be inspected, tested or approved by an employee or other representative of such public body, Contractor shall assume full responsibility for arranging and obtaining such inspections, tests or approvals, and furnish Owner with the required certificates of inspection, or approval. Owner will pay the cost of initial testing and Contractor shall pay all costs in connection with any follow-up or additional testing. Contractor shall also be responsible for arranging and obtaining and shall pay all costs in connection with any inspections, tests or approvals required for the acceptance of materials or equipment to be incorporated in the Work, or of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work.
- E. If Contractor covers any Work, or the work of others, prior to any required inspection, test or approval without written approval of Owner, Contractor shall uncover the Work at Owner's request. Contractor shall bear the expense of uncovering Work and replacing Work.
- F. Contractor shall furnish tools, labor and materials necessary to make examination of Work that may be completed or in progress, even to the extent of uncovering or taking down portions of finished Work. Cost of making examination and of reconstruction shall be borne by Contractor.
- G. Inspection of the Work by or on behalf of Owner, or Owner's failure to do so, shall not under any circumstances be deemed a waiver or approval of any non-conforming aspect of the Work. Contractor shall have an absolute duty, in the absence of a written Change Order signed by Owner, to perform Work in conformance with the Contract Documents and to immediately correct Defective Work immediately upon Contractor's knowledge.
- H. Any inspection, evaluation, or test performed by or on behalf of Owner relating to the Work is solely for the benefit of Owner, and shall not be relied upon by Contractor. Contractor shall not be relieved of the obligation to perform Work in accordance with the Contract Documents, nor relieved of any guaranty, warranty, or other obligation, as a result of any inspections, evaluations, or tests performed by Owner, whether or not such inspections, evaluations, or tests are permitted or required under the Contract Documents. Contractor shall be solely responsible for testing and inspecting Work already performed to determine whether such Work is in proper condition to receive later Work.

9.03 Correction Of Defective Work

- A. Owner may direct Contractor to correct any Defective Work or remove it from the Site and replace it with Work that is not Defective and satisfactorily correct or remove and replace any damage to other Work or the work of others resulting from the correction or removal. Contractor shall be responsible for any and all claims, costs, losses and damages caused by or resulting from such correction or removal. Owner's rights under this Paragraph shall be in addition to any other rights it may have under the Contract Documents or by law.
- B. If Contractor fails to supply sufficient skilled workers, suitable materials or equipment, or to furnish or perform the Work in such a way that the completed Work will conform to Contract Documents, Owner may order Contractor to replace any such Defective Work, or stop any portion of Work to permit Owner (at Contractor's expense) to replace such Defective Work. These Owner rights are entirely discretionary on the part of Owner, and shall not give rise to any duty on the part of Owner to exercise the rights for the benefit of Contractor or any other party.

9.04 Acceptance And Correction Of Defective Work By Owner

- A. Owner may in its sole discretion elect to accept Defective Work. Contractor shall pay all claims, costs, losses and damages attributable to Owner's evaluation of and determination to accept such Defective Work. If Owner accepts any Defective Work prior to final payment, a Change Order may be issued incorporating the necessary revisions in the Contract Documents with respect to the Work and the Contract Sum. If the parties are unable to agree to the amount of an appropriate decrease in the Contract Sum, Owner may deduct from monies due Contractor, all claims, costs, losses, damages, expenses and liabilities attributable to the Defective Work. If Contractor disagrees with Owner's calculations, Contractor may make a claim as provided in Article 12 of this Document 00700. If Owner accepts any Defective Work after final payment, Contractor shall pay to Owner, an appropriate amount as determined by Owner.
- B. Owner may correct and remedy deficiency if, after five (5) Calendar Days of written notice to Contractor, Contractor fails to correct Defective Work or to remove and replace rejected Work; or provide a plan for correction of Defective Work acceptable to Owner; or perform Work in accordance with Contract Documents. In connection with such corrective and remedial action, Owner may exclude Contractor from all or part of the Site; take possession of all or part of Work and suspend Contractor's Work related thereto; and incorporate in Work any materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, its representatives, agents, employees, and other contractors and Project Manager/Architect's consultants' access to the Site to enable Owner to exercise the rights and remedies under this Paragraph. Contractor shall be responsible for all claims, costs, losses, damages, expenses and liabilities incurred or sustained by Owner in exercising such rights and remedies. A Change Order may be issued incorporating the necessary revisions in the Contract Documents with respect to Work and the Contract Sum. If the parties are unable to agree to the amount of an appropriate decrease in the Contract Sum, Owner may deduct from monies due Contractor, all claims, costs, losses and damages caused by or resulting from the correction or removal. If Contractor disagrees with Owner's calculations, Contractor may make a claim as provided in Article 12 of this Document 00700.

9.05 Rights Upon Inspection, Correction Or Acceptance

- A. Contractor shall not be allowed an extension of Contract Time because of any delay in the performance of Work attributable to the exercise by Owner of its rights and remedies under this Article. Where Owner exercises its rights under this Article, it retains and may still exercise all other rights it has by law or under the Contract Documents including, but not limited to, the right to terminate Contractor's right to proceed with the Work under the Contract Documents for cause and/or make a claim or back charge where a Change Order cannot be agreed upon.
- B. Inspection by Owner or its authorized agents or representatives shall not relieve Contractor of its obligation to have furnished material and workmanship in accordance with Contract Documents. Payment for Work completed through periodic progress payments, final payment or otherwise shall not operate to waive Owner's right to require full compliance with Contract Documents and shall in no way be deemed as acceptance of any defective Work paid therefor. Contractor's obligation to complete the Work in accordance with Contract Documents shall be absolute, unless Owner agrees otherwise in writing.

9.06 Proof Of Compliance Of Contract Provisions

- A. In order that Owner may determine whether Contractor has complied or is complying with requirements of Contract Documents not readily enforceable through inspection and tests of Work and materials, Contractor shall at any time, when requested, submit to Owner properly authenticated documents or other satisfactory proofs of compliance with all applicable requirements.
- B. Before commencing any portion of Work, Contractor shall inform Owner in writing as to time and place at which Contractor wishes to commence Work, and nature of Work to be done, in order that proper provision for inspection of Work may occur, and to assure measurements necessary for record and payment. Information shall be given to Owner a reasonable time in advance of time at which Contractor proposes to begin Work, so that Owner may complete necessary preliminary work without inconvenience or delay to Contractor.

9.07 Correction Period And Project Warranty Period:

- A. If within one year after the Date of Completion as identified on the recorded Notice of Completion, or such longer period of time as may be prescribed by laws, regulations or by the terms of Contract Documents or any extended warranty or guaranty, any Work (completed or incomplete) is found to be Defective, Contractor shall promptly without cost to Owner and in accordance with Owner's written instructions, correct such Defective Work. Contractor shall remove any Defective Work rejected by Owner and replace it with Work that is not Defective, and satisfactorily correct and remove and replace any damage to other Work or the work of others resulting therefrom. If Contractor fails to promptly comply with the terms of such instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the Defective Work corrected or the rejected Work removed and replaced. Contractor shall pay for all claims, costs, losses and damages caused by or resulting from such removal and replacement. Where Contractor fails to correct Defective Work, or defects are discovered outside the correction period, Owner shall have all rights and remedies granted by law.
- B. In special circumstances where a part of the Work is occupied or a particular item of equipment is placed in continuous service before the date of completion as identified in the recorded Notice of Completion of all the Work, the correction period for that part of Work or that item may start to run from an earlier date if so provided by Change Order.
- C. Where Defective Work or rejected Work (and damage to other Work resulting therefrom) has been corrected, removed, or replaced under this provision after the commencement of the correction period, the correction period hereunder with respect to such Work shall be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.

9.08 No Waiver

- A. Neither recordation of the Notice of Completion nor final certificate for payment nor provision of the Contract nor partial or entire use or occupancy of premises by Owner shall constitute acceptance of Work not done in accordance with Contract Documents nor relieve Contractor of liability in respect to express warranties or responsibility for faulty materials or workmanship.
- B. If, after installation, operation, or use of materials or equipment to be provided under Contract proves to be unsatisfactory to Owner, Owner shall have right to operate and use materials or equipment until said materials and equipment can, without damage to Owner, be taken out of service for correction or replacement. Period of use of Defective materials or equipment pending correction or replacement shall in no way decrease guarantee period required for acceptable corrected or replaced items of materials or equipment.
- C. Nothing in the Contract Documents shall be construed to limit, relieve, or release Contractor's, Subcontractors', and equipment suppliers' liability to Owner for damages sustained as result of latent defects in materials or equipment caused by negligence of Contractor, its agents, suppliers, employees, or Subcontractors.

ARTICLE 10 - MODIFICATIONS OF CONTRACT DOCUMENTS

10.01 Owner's Right To Direct Changed Work.

- A. Owner may, without notice to the sureties and without invalidating the Contract, make changes in the Work ("Changed Work"), including without limitation: alterations, deviations, additions to, or deletions from Contract Documents; increase or decrease the quantity of any item or portion of the Work; expand, reduce or otherwise change the Contract Time; delete any item or portion of the Work; and require extra Work. Contractor shall perform such Work under applicable provisions of the Contract Documents, unless specifically provided otherwise at the time the change is ordered.
- B. If Changed Work is of such a nature as to increase or decrease the time or cost of any part of Work, price fixed in Contract shall be increased or decreased by amount as the Contractor and Owner may agree upon as reasonable and proper allowance for increase or decrease in cost of Work using the cost guidelines set forth in this Article, and absent such agreement, then as Owner may direct (with Contractor retaining its rights under Article 12 herein).

10.02 Required Documentation For Changed Work

- A. Changes affecting the Contract Time or Contract Sum of the Work shall be set forth in a written Change Order that shall specify:
 - 1. The Work performed in connection with the change to be made;
 - 2. The amount of the adjustment of the Contract Sum, if any, and the basis for compensation for the Work ordered; and
 - 3. The extent of the adjustment in the Contract Time, if any.
- B. A Change Order will become effective when signed by Owner, notwithstanding that Contractor has not signed it. A Change Order will become effective without Contractor's signature, provided Owner indicates same thereon (by indicating it as a "unilateral change order").

10.03 Procedures And Pricing Of Changed Work

- A. Procedures for changed work and pricing of changed work, claims and all forms of extra compensation, are set forth in Section 01205 (Modification Procedures).

ARTICLE 11 - TIME ALLOWANCES

11.01 Time Allowances

- A. Time is of the essence. Contract Time may only be changed by Change Order, and all time limits stated in the Contract Documents are to mean that time is of the essence.

11.02 Excusable Delay And Inexcusable Delay Defined.

- A. Excusable Delay. Subject to the provisions on Notice of Delay below, Contract Time may be adjusted in an amount equal to the time lost due to:
 - 1. Changes in the Work ordered by Owner ("**Changes**");
 - 2. Acts or neglect by Owner, Architect, any Owner Representative, utility owners or other contractors performing other work, not permitted or provided for in the Contract Documents, provided that Contractor has performed its responsibilities under the Contract Documents (including but not limited to pre-bid investigations) ("**Acts or Neglect**"); or
 - 3. Fires, floods, epidemics, abnormal weather conditions beyond the parameters otherwise set forth in this Article, earthquakes, civil or labor disturbances, or acts of God (together, "force majeure events"), provided damages resulting therefrom are not the result of Contractor's failure to protect the Work as required by Contract Documents ("**Force Majeure**").
- B. Inexcusable Delay. Contract Time shall not be extended for any period of time where Contractor (and/or any Subcontractor) is delayed or prevented from completing any part of the Work due to a cause that is within Contractor's risk or responsibility under the Contract Documents. Delays attributable to or within the control of a Subcontractor, or its subcontractors, or supplier, are deemed delays within the control of Contractor.
- C. Float. Float shall be treated as a Project resource. Contractor shall not be entitled to a time extension for impacts that consume float, but do not impact the critical path.

11.03 Notice Of Delay

- A. Within five (5) Working Days of the beginning of any delay (excepting adverse weather delays), Contractor shall notify Owner in writing, by submitting a notice of delay that shall describe the anticipated delays resulting from the delay event in question. If Contractor requests an extension of time, Contractor shall submit a TIE within seven (7) WorkingDays of the notice of delay. Owner will determine all claims and adjustments in the Contract Time. No claim for an adjustment in the Contract Time will be valid and such claim will be waived if not submitted in accordance with the requirements of this subparagraph. In cases of substantial compliance with the seven-day notice requirement here (but not to exceed fifteen (15) Working Days from the beginning of the delay event), Owner may in its sole discretion recognize a claim for delay

accompanied with the proper TIE, provided Contractor also shows good faith and a manifest lack of prejudice to Owner from the late notice.

11.04 Compensable Time Extensions

- A. Subject to other applicable provisions of the Contract Documents, Contractor may be entitled to adjustment in Contract Sum in addition to Contract Time for:
 - 1. Excusable delay caused solely by Changes in the Work ordered by Owner, as provided above, and/or
 - 2. Excusable delay caused solely by Acts or Neglect by Owner or other person, as provided above.

11.05 Non-Compensable Time Extensions

- A. Subject to other applicable provisions of the Contract Documents, Contractor may be entitled to adjustment in Contract Time only, without adjustment in Contract Sum, for
 - 1. Periods of excusable delay caused solely by weather or Force Majeure events as provided above in this Article, or
 - 2. Periods of concurrent delay, where delay results from two or more causes, one of which is compensable (resulting from Changes or Acts or Neglect as set forth above in this Article), and the other of which is non-compensable or inexcusable, such as: acts or neglect of Contractor, Subcontractors or others for whom Contractor is responsible; other acts, omissions and conditions which would not entitle Contractor to adjustment in Contract Time; adverse weather; and/or actions of Force Majeure as provided above in this Article.

11.06 Adverse Weather

- A. If the Contractor is delayed in the performance of the Work because of acts of God, fire, strikes, unavailability of materials or similar occurrences beyond his control, the Owner may grant such extension of time to complete the contract as he deems appropriate, providing the contractor has notified the Owner in writing of the causes of the delay within five (5) Working Days of the beginning of the delay.
- B. Requests for extensions of time to complete the contract based on delays in the performance of the work due to inclement weather must be submitted in writing to the KCHA with appropriate justification on the number of days of delay. The Contractor and KCHA will review the inclement weather days weekly. The Contractor will not be entitled to payment for costs incurred as a result of taking such actions.
- C. During unfavorable weather, wet ground, or other unsuitable construction conditions, Contractor shall employ best practices to protect the Work, manage the construction site and rainwater during inclement weather and provide requirements of implemented SWPPP and BMP's. Persons performing the Work shall examine surfaces to receive their Work and shall report in writing to Contractor, with copy to Owner representative and the Architect conditions detrimental to the Work. Failure to examine and report discrepancies makes the Contractor responsible, at no increase in Contract Sum, for corrections Owner may require. Commencement of Work constitutes acceptance of surface.

11.07 Liquidated Damages

- A. Time is of the essence. Execution of Contract Documents by Contractor shall constitute its acknowledgement that Owner will actually sustain damages in the form of Contract administration expenses (such as Project management and consultant expenses) in the amount fixed in the Contract Documents for each and every Day during which completion of Work required is delayed beyond expiration of time fixed for completion plus extensions of time allowed pursuant to provisions hereof.

ARTICLE 12 - CLAIMS BY CONTRACTOR

12.01 Obligation to File Claims for Disputed Work

- A. Should it appear to Contractor that the Work to be performed or any of the matters relative to the Contract Documents are not satisfactorily detailed or explained therein, or should any questions arise as to the meaning or intent of the Contract Documents, or should any dispute arise regarding the true value of any work performed, work omitted, extra work that the Contractor may be required to perform, time extensions, payment to the Contractor during performance of this Contract, performance of the Contract, and/or compliance with Contract procedures, or should Contractor otherwise seek extra time or compensation FOR ANY REASON WHATSOEVER, then Contractor shall first follow procedures set forth in the Contract (including but not limited to other Articles of this Document 00700 and Section 01205.) If a dispute remains, then Contractor shall give written notice to Owner that expressly invokes this Article 12. Owner shall decide the issue in writing within 15 Working Days; and Owner's written decision shall be final and conclusive. If Contractor disagrees with Owner's decision, or if Contractor contends that Owner failed to provide a decision timely, then Contractor's SOLE AND EXCLUSIVE REMEDY is to promptly file a written claim setting forth Contractor's position as required herein.

12.02 Form And Contents Of Claim

- A. Contractor's written claim must identify itself as a "Claim" under Article 12 and must include the following: (1) a narrative of pertinent events; (2) citation to contract provisions; (3) theory of entitlement; (4) complete pricing of all cost impacts; (5) a time impact analysis of all time delays that shows actual time impact on the critical path; (6) documentation supporting items 1 through 5; a verification under penalty of perjury of the claim's accuracy. The Claim shall be submitted to Owner within thirty (30) Calendar Days of receiving Owner's written decision, or the date Contractor contends such decision was due, and shall be priced like a change order according to Section 01205, and must be updated monthly as to cost and entitlement if a continuing claim. Routine contract materials, for example, correspondence, RFI, Change Order requests, or payment requests shall not constitute a claim. Contractor shall bear all costs incurred in the preparation and submission of a claim.

12.03 Administration During/After Claim Submission

- A. Owner may render a final determination based on the Claim or may in its discretion conduct an administrative hearing on Contractor's claim, in which case Contractor shall appear, participate, answer questions and inquiries, and present any further evidence or analysis requested by Owner prior to rendering a final determination. Should Owner take no action on the Claim within 45 Calendar Days of submission, it shall be deemed denied.
- B. Notwithstanding and pending the resolution of any claim or dispute, Contractor shall diligently prosecute the disputed work to final completion in accordance with Owner's determination.
- C. After their submission, claims that total less than \$375,000 in the aggregate at Contract closeout shall also be subject to the Local Agency Disputes Act.

12.04 Compliance

- A. The provisions of this Article 12 constitute a non-judicial claim settlement procedure that, pursuant to Section 930.2 of the California Government Code, shall constitute a condition precedent to submission of a valid Government Code Section 910 Claim under the California Government Code. Contractor shall bear all costs incurred in the preparation, submission and administration of a claim. Any claims presented thereafter in accordance with the Government Code must affirmatively indicate Contractor's prior compliance with the claims procedure herein and the previous dispositions under Paragraph 12.03 above of the claims asserted. Pursuant to Government Code Section 930.2, the one-year period in Government Code section 911.2 shall be reduced to 150 Calendar Days from either accrual of the cause of action, substantial completion or termination of the contract, whichever occurs first; in all other respects, the requirements of the Government Code shall apply unchanged, including, without limitation, Contractor's obligation to file a Government Code Section 910 Claim.
- B. Failure to submit and administer claims as required in Article 12 shall waive Contractor's right to claim on any specific issues not included in a timely submitted claim. Claim(s) or issue(s) not raised in a timely protest and timely claim submitted under this Article 12 may not be asserted in any subsequent litigation, Government Code Section 910 Claim, or legal action.

- C. Owner shall not be deemed to waive any provision under this Article 12, if at Owner's sole discretion, a claim is administered in a manner not in accord with this Article 12. Waivers or modifications of this Article 12 may only be made a signed change order approved as to form by legal counsel for both Owner and Contractor; oral or implied modifications shall be ineffective.

ARTICLE 13 - UNDERGROUND CONDITIONS

13.01 Contractor To Locate Underground Facilities.

- A. During construction, Contractor shall comply with Government Code Sections 4216 to 4216.9, and in particular Section 4216.2 which provides, in part: "Except in an emergency, every person planning to conduct any excavation shall contact the appropriate regional notification center at least two (2) Working Days, but no more than ten (10 Working Days, prior to commencing that excavation, if the excavation will be conducted in an area which is known, or reasonably should be known, to contain subsurface installations other than the underground facilities owned or operated by the excavator, and, if practical, the excavator shall delineate with white paint or other suitable markings the area to be excavated. The regional notification center shall provide an inquiry identification number to the person who contacts the center and shall notify any member, if known, who has a subsurface installation in the area of the proposed excavation."
- B. Contractor shall contact Underground Service Alert (USA) or the appropriate regional notification center, and schedule the Work to allow ample time for the center to notify its members and, if necessary, for any member to field locate and mark its facilities. Contractor is charged with knowledge of all subsurface conditions reflected in underground utility records. Contractor shall advise Owner of any conflict between information provided in Document 00300 (Geotechnical Data and Existing Conditions), the Drawings and that provided by underground utility records. Contractor's excavation shall be subject to and comply with the Contract Documents.
- C. Contractor shall also investigate the existence of existing service laterals, appurtenances or other types of utilities, indicated by the presence of an underground transmission main implied by the presence of visible facilities, such as buildings, new asphalt, meters and junction boxes, on or adjacent to the Site, even if not shown or indicated in Document 00300 (Geotechnical Data and Existing Conditions), or the Drawings or that provided by underground utility records. Contractor shall immediately secure all such available information and notify Owner and the utility owner, in writing, of its discovery.

13.02 Contractor To Protect Underground Facilities.

- A. At all times during construction, all operating Underground Facilities shall remain in operation, unless the Contract Documents expressly indicate otherwise. Contractor shall maintain such Underground Facilities in service where appropriate; shall repair any damage to them caused by the Work; and shall incorporate them into the Work, including reasonable adjustments to the design location (including minor relocations) of the existing or new installations. Contractor shall take immediate action to restore any in service installations damaged by Contractor's operations.
- B. Prior to performing Work at the Site, Contractor shall lay out the locations of Underground Facilities that are to remain in service and other significant known underground installations indicated by the Underground Facilities Data. Contractor shall further locate, by carefully excavating with small equipment, potholing and principally by hand, all such utilities or installations that are to remain and that are subject to damage. If additional utilities whose locations are unknown are discovered, Contractor shall immediately report to Owner for disposition of the same. Additional compensation or extension of time on account of utilities not shown or otherwise brought to Contractor's attention, including reasonable action taken to protect or repair damage, shall be determined as provided in this Document 00700.
- C. If during construction, an Underground Facility is uncovered or revealed at or contiguous to the Site which was not shown or indicated in the materials supplied by Owner for bidding or in information on file at USA or otherwise reasonably available to Contractor, then Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby (and in no event later than five (5) Working Days), and prior to performing any Work in connection therewith (except in an emergency), identify the owner of such Underground Facility and give

- written notice to Underground Facility owner and Owner. During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.
- D. The cost of all of the following will be included in the Contract Sum and Contractor shall have full responsibility for (a) reviewing and checking all available information and data including, but not limited to, information made available for bidding and information on file at USA; (b) locating all Underground Facilities shown or indicated in the Contract Documents, available information, or indicated by visual observation including, but not limited to, and by way of example only, engaging qualified locating services and all necessary backhoeing and potholing; (c) coordination of the Work with the owners of such Underground Facilities during construction; and (d) the safety and protection of all such Underground Facilities and repairing any damage thereto resulting from the Work.
 - E. Consistent with California Government Code §4215, as between Owner and Contractor, Owner will be responsible for the timely removal, relocation, or protection of existing main or trunk line utility facilities located on the Site only if such utilities are not identified in the Contract Documents or information made available for bidding. Owner will compensate for the cost of locating and repairing damage not due to Contractor's failure to exercise reasonable care, removing and relocating such main or trunk line utility facilities not indicated in the Contract Documents or information made available for bidding with reasonable accuracy, and equipment on the Project necessarily idled during such Work. Contractor shall not be assessed liquidated damages for delay in completion of the Project, when such delay was caused by the failure of Owner or the utility to provide for removal or relocation of such utility facilities.

13.03 Concealed Or Unknown Conditions

- A. If either of the following conditions is encountered at Site when digging trenches or other excavations that extend deeper than four feet below the surface, Contractor shall give a written Notice of Differing Site Conditions to Owner promptly before conditions are disturbed, except in an emergency as set forth in this Document 00700, and in no event later than five (5) Working Days after first observance of:
 - 1. Subsurface or Latent physical conditions which differ materially from those indicated in the Contract Documents; or
 - 2. Unknown physical conditions of an unusual nature or which differ materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents.
- B. In response to Contractor's Notice of Differing Site Conditions under this Paragraph, Owner will investigate the identified conditions, and if they differ materially and cause increase or decrease in Contractor's cost of, or time required for, performance of any part of the Work, Owner will negotiate the appropriate change order following the procedures set forth in the Contract Documents. If Owner determines that physical conditions at the Site are not Latent or are not materially different from those indicated in Contract Documents or that no change in terms of the Contract Documents is justified, Owner will so notify Contractor in writing, stating reasons (with Contractor retaining its rights under Article 12 of this Document 00700.)
- C. Contractor shall not be entitled to any adjustment in the Contract Sum or Contract Time regarding claimed Latent or materially different Site conditions (whether above or below grade) if Contractor knew or should have known of the existence of such conditions at the time Contractor submitted its Bid, failed to give proper notice, or relied upon information, conclusions, opinions or deductions of the kind that the Contract Documents preclude reliance upon.
- D. Regarding Underground Facilities, Contractor shall be allowed an increase in the Contract Sum or an extension of the Contract Time, or both, to the extent that they are attributable to the existence of any Underground Facility that is owned and was built by Owner only where the Underground Facility:
 - 1. Was not shown or indicated in the Contract Documents or in the information supplied for bidding purposes or in information on file at USA; and
 - 2. Contractor did not know of it; and

3. Contractor could not reasonably have been expected to be aware of it or to have anticipated it from the information available. (For example, if surface conditions such as pavement repairs, valve covers, or other markings, indicate the presence of an Underground Facility, then an increase in the Contract Sum or an extension of the Contract Time will not be due, even if the Underground Facility was not indicated in the Contract Documents, in the information supplied to Contractor for bidding purposes, in information on file at USA, or otherwise reasonably available to Contractor.)
- E. Contractor shall bear the risk that Underground Facilities not owned or built by Owner may differ in nature or locations shown in information made available by Owner for bidding purposes, in information on file at USA, or otherwise reasonably available to Contractor. Underground Facilities are inherent in construction involving digging of trenches or other excavations on Owner's Project, and Contractor is to apply its skill and industry to verify the information available.
- F. Contractor's compensation for claimed Latent or materially different Site conditions shall be limited to the actual, reasonable, incremental increase in cost of that portion of the Work, resulting from the claimed Latent or materially different Site conditions. Such calculation shall take into account the estimated value of that portion of the Work and the actual value of that portion of the Work, using for guidance Contractor's or its subcontractor's bid amount and actual amounts incurred for that portion of the Work and the reasonable expectation (if any) of differing or difficult site conditions in the Work area based on the available records and locale of the Work. For example, if Contractor excavates in an area unexpected, then such costs would be recoverable entirely; while if Contractor extends an existing excavation, then such costs would be recoverable if the resulting excavation costs in that work area exceeded the reasonable expectations therefore.

13.04 Notice Of Hazardous Waste Or Materials Conditions

- A. Contractor shall give a written Notice of Hazardous Materials Condition to Owner promptly, before any of the following conditions are disturbed (except in an emergency as set forth in this Document 00700), and in no event later than 24 hours after first observance of any:
 1. Material that Contractor believes may be hazardous waste or hazardous material, as defined in Section 25117 of the Health and Safety Code (including, without limitation, Asbestos, lead, PCBs, petroleum and related hydrocarbons, and radioactive material) that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law ("hazardous material"); or
 2. Other material that may present an imminent substantial danger to persons or property exposed thereto in connection with Work at the Site ("other materials").
- B. Except as otherwise provided in the Contract Documents or as provided by applicable law, Contractor shall not be required to give any notice for the disturbance or observation of any such hazardous materials or other materials where such matter is disturbed or observed as part of the scope of Work under the Contract Documents (such as hazardous waste or hazardous material investigation, remediation or disposal activities which are identified as the subject of Work under the Contract Documents), where Contractor complies with all requirements in the Contract Documents and applicable law respecting such materials.
- C. Contractor's Notice of Hazardous Materials Condition shall indicate whether the hazardous materials or other materials were shown or indicated in the Contract Documents to be within the scope of Work, and whether the hazardous materials or other materials were brought to the Site by Contractor, its Subcontractors, suppliers, or anyone else for whom Contractor is responsible.
- D. Contractor shall not be entitled to any adjustment in the Contract Sum or Contract Time regarding claimed hazardous waste or materials if:
 1. Contractor knew of the existence of such hazardous materials or other materials at the time Contractor submitted its Bid; or
 2. Contractor should have known of the existence of such hazardous material or other materials as a result of its having the responsibility to obtain additional or supplementary examinations, investigation, explorations, tests, studies, and data concerning the conditions at or contiguous to the Site prior to submitting its Bid; or

3. Contractor failed to give the written notice within the required timeframe set forth below.
- E. If Owner determines that conditions involve hazardous materials or other materials and that a change in Contract Document terms is justified, Owner may issue either a Request for Proposal or Construction Change Order under the procedures described in the Contract Documents. If Owner determines that conditions do not involve hazardous materials or other materials or that no change in Contract Document terms is justified, Owner will notify Contractor in writing, stating the reasons for its determination.
- F. In addition to the parties' other rights under this Document 00700, if Contractor does not agree to resume Work based on a reasonable belief that it is unsafe, or does not agree to resume Work under special conditions, Owner may order the disputed portion of Work deleted from the Work, or performed by others, or Owner may invoke its right to terminate Contractor's right to proceed under the Contract Documents in whole or in part, for convenience or for cause as the facts may warrant.
- G. If Contractor does not agree with any Owner determination of any adjustment in the Contract Sum or Contract Time under this Article, Contractor may make a claim as provided in Article 12 of this Document 00700.

ARTICLE 14 - LEGAL AND MISCELLANEOUS

14.01 Laws And Regulations

- A. Contractor shall keep fully informed of and shall comply with all laws, ordinances, regulations and orders of any properly constituted authority affecting the Contract Documents, Work and persons connected with Work, and shall protect and indemnify Owner and its officers, employees, consultants and agents against any claim or liability, including attorney's fees, arising from or based on violation of law, ordinance, regulation or order, whether by Contractor or by Subcontractors, employees or agents. Authorized persons may at any time enter upon any part of Work to ascertain compliance of all applicable laws, ordinances, regulations and orders.

14.02 Permits And Taxes

- A. Contractor shall procure all permits and licenses applicable to the Work (including environmental matters to the extent applicable); pay all charges and fees, including fees for street opening permits; comply with, implement and acknowledge effectiveness of all permits; initiate and cooperate in securing all required notifications or approvals therefore; and give all notices necessary and incident to due and lawful prosecution of Work, unless otherwise provided herein. Owner will pay applicable building permits, sanitation and water fees for the completed construction, except as otherwise provided in the Contract Documents. Contractor shall pay all sales and/or use taxes levied on materials, supplies, or equipment purchased and used on or incorporated into Work, and all other taxes properly assessed against equipment or other property used in connection with Work, without any increase in the Contract Sum. Contractor shall make necessary arrangements with proper authorities having jurisdiction over roads, streets, pipelines, navigable waterways, railroads, and other works in advance of operations, even where Owner may have already obtained permits for the Work.

14.03 Communications And Information Distribution

- A. All communications recognized under the Contract Documents shall be in writing, in the form of a serialized document, by type of communication. For example, RFI's shall be serialized beginning with RFI No. 1; payment applications shall be serialized beginning with Payment Application No. 1, submittals shall be serialized per specification section and transmitted with transmittal sheets beginning with Transmittal No. 1; and correspondence shall be serialized beginning with letter No. 1. Contractor may propose other record management and identification systems or protocols, intended to facilitate orderly transmittal of project information, storage and retrieval of such information, which Owner will review consistent with these stated objectives, and accept or reject in its sole discretion.
- B. Documents Requiring Signatures. All documents requiring signatures for approval prior to implementing action, as stipulated in other portions of Contract Documents, shall require a

manually signed, serialized letter delivered to the other party at its address for notice otherwise specified in the Contract Documents, either personally or by mail.

- C. Electronic data transfer of such correspondence will serve to expedite preliminary concurrence of information, only. Receipt of "hard copy" signature on forms is required prior to implementing action or work as the conditions may require. For example, change orders and authorizations for extra cost, require signatures. A party may acknowledge receipt of portable document file (PDF) copies of required correspondence by e-mail, but in the absence of such acknowledgment, mail or personal delivery is required.
- D. All emails shall be copied to Owner's and Contractor's Project Representative. Owner reserves the right to preclude e-mail communication, in whole or in part, as Project needs may require. Communication between Owner and Contractor shall not be via Twitter, Facebook, or other types of instant text message systems. Any such communications shall be inadmissible for any purpose related to this Contract.

14.04 Suspension Of Work

- A. Owner may, without cause, order Contractor in writing to suspend, delay or interrupt Work in whole or in part for such period of time as Owner may determine. An adjustment shall be made for increases in cost of performance of Work of the Contract Documents caused by any such suspension, delay or interruption, calculated using the measures set forth in Section 01205 (Modification Procedures). No adjustment shall be made to extent that performance is, was or would have been so suspended, delayed or interrupted by another cause for which Contractor is responsible.

14.05 Termination Of Contract For Cause

- A. The Contractor shall be in default of the Contract Documents and Owner may terminate the Contractor's right to proceed under the Contract Documents, for cause, in whole or in part, should the Contractor commit a material breach of the Contract Documents and not cure such breach within ten (10) Calendar Days of the date of notice from Owner to the Contractor demanding such cure; or, if such breach is curable but not curable within such ten (10) day period, within such period of time as is reasonably necessary to accomplish such cure. (In order for the Contractor to avail itself of a time period in excess of ten (10) Calendar Days, the Contractor must provide Owner within the ten (10) day period with a written plan acceptable to Owner that demonstrates actual resources, personnel and a schedule to promptly to cure said breach, and then diligently commence and continue such cure according to the written plan).
- B. In the event of termination by Owner for cause as provided herein, the Contractor shall deliver to Owner possession of the Work in its then condition, including but not limited to, all designs, engineering, Project records, cost data of all types, plans and specifications and contracts with vendors and subcontractors, all other documentation associated with the Project, and all construction supplies and aids dedicated solely to performing the Work which, in the normal course of construction, would be consumed or only have salvage value at the end of the construction period. The Contractor shall remain fully liable for the failure of any Work completed and materials and equipment provided through the date of such termination to comply with the provisions of the Contract Documents. The provisions of this Section shall not be interpreted to diminish any right which Owner may have to claim and recover damages for any breach of the Contract Documents or otherwise, but rather, the Contractor shall compensate Owner for all loss, cost, damage, expense, and/or liability suffered by Owner as a result of such termination and/or failure to comply with the Contract Documents.
- C. In the event a termination for cause is later determined to have been made wrongfully or without cause, then the termination shall be treated as a termination for convenience, and the Contractor shall have no greater rights than it would have had following a termination for convenience. Any Contractor claim arising out of a termination for cause shall be made in accord with Article 12 herein. No other loss, cost, damage, expense or liability may be claimed, requested or recovered by the Contractor.

14.06 Termination Of Contract For Convenience

- A. Owner may terminate performance of the Work under the Contract Documents in accordance with this clause in whole, or from time to time in part, whenever Owner shall determine that termination is in Owner's best interest. Termination shall be effected by Owner delivering to the Contractor notice of termination specifying the extent to which performance of the Work under the Contract Documents is terminated, and the effective date of the termination.
- B. Contractor shall comply strictly with Owner's direction regarding the effective date of the termination, the extent of the termination, and shall stop work on the date and to the extent specified.
- C. Contractor shall be entitled to a total payment on account of the Contract work so terminated measured by (i.) the actual cost to Contractor of Work actually performed, up to the date of the termination, with profit and overhead limited to twelve percent (12%) of actual cost of work performed, up to but not exceeding the actual contract value of the work completed as measured by the Schedule of Values and Progress Schedule, (ii.) offset by payments made and other contract credits. In connection with any such calculation, however, Owner shall retain all rights under the Contract Documents, including but not limited to claims, indemnities, or setoffs.
- D. Under no circumstances may Contractor recover legal costs of any nature, nor may Contractor recover costs incurred after the date of the termination or lost profits on terminated Work.

14.07 Remedies

- A. Subject to Contract Documents provisions regarding Contractor claims, claim review, and claim resolution, and subject to the limitations therein, the exclusive jurisdiction and venue for resolving all claims, counter claims, disputes and other matters in question between Owner and Contractor arising out of or relating to Contract Documents, any breach thereof or the Project shall be the applicable court of competent jurisdiction located in the State and County where the Project is located.
- B. All Owner remedies provided in the Contract Documents shall be taken and construed as cumulative and not exclusive; that is, in addition to each and every other remedy herein provided; and in all instances Owner shall have any and all other equitable and legal rights and remedies which it would have according to law.

14.08 Contract Integration and Non-Waiver

- A. The Contract Documents, any Contract Modifications and Change Orders, shall represent the entire and integrated agreement between Owner and Contractor regarding the subject matters hereof and thereof and shall constitute the exclusive statement of the terms of the parties' agreement. The Contract Documents, and any Contract Modifications and Change Orders, shall supersede any and all prior negotiations, representations or agreements, written or oral, express or implied, that relate in any way to the subject matter of the Contract Documents or written Modifications. Owner and Contractor represent and agree that, except as otherwise expressly provided in the Contract Documents, they are entering into the Contract Documents and any subsequent written Modification in sole reliance upon the information set forth or referenced in the Contract Documents or Contract Modifications; the parties are not and will not rely on any other information, which shall be inadmissible in any proceeding to enforce these documents.
- B. Either party's waiver of any breach or failure to enforce any of the terms, covenants, conditions or other provisions of the Contract Documents at any time shall not in any way affect, limit, modify or waive that party's right thereafter to enforce or compel strict compliance with every term, covenant, condition or other provision hereof, any course of dealing or custom of the trade or oral representations notwithstanding.
- C. Neither acceptance of the whole or any part of Work by Owner nor any verbal statements on behalf of Owner or its authorized agents or representatives shall operate as a waiver or modification of any provision of the Contract Documents, or of any power reserved to Owner herein nor any right to damages provided in the Contract Documents.

14.9 Interpretation.

- A. Should any part, term or provision of this Agreement or any of the Contract Documents, or any document required herein or therein to be executed or delivered, be declared invalid, void or unenforceable, all remaining parts, terms and provisions shall remain in full force and effect and

shall in no way be invalidated, impaired or affected thereby. If the provisions of any law causing such invalidity, illegality or unenforceability may be waived, they are hereby waived to the end that this Agreement and the Contract Documents may be deemed valid and binding agreements, enforceable in accordance with their terms to the greatest extent permitted by applicable law. In the event any provision not otherwise included in the Contract Documents is required to be included by any applicable law, that provision is deemed included herein by this reference (or, if such provision is required to be included in any particular portion of the Contract Documents, that provision is deemed included in that portion).

- B. Contract Documents shall not be construed to create a contractual relationship of any kind between (1) Project Manager or any Owner's representative and Contractor; (2) Owner and/or its Representatives and a Subcontractor, sub-Subcontractor, or supplier of any Project labor, materials, or equipment; or (3) between any persons or entities other than Owner and Contractor.

14.10 Patents

- A. Fees or claims for any patented invention, article or arrangement that may be used upon or in any manner connected with performance of the Work or any part thereof shall be included in the Bid price for doing the Work. Contractor shall defend, indemnify and hold harmless Owner and each of its officers, employees, consultants and agents, including, but not limited to, the Board and each Owner's Representative, from all damages, claims for damages, costs or expenses in law or equity, including attorney's fees, arising from or relating to any claim that any article supplied or to be supplied under the Contract Documents infringes on the patent rights, copyright, trade name, trademark, service mark, trade secret or other intellectual property right of any person or persons or that the person or entity supplying the article does not have a lawful right to sell the same. Such costs or expenses for which Contractor agrees to indemnify and hold harmless the above indemnities include but are not limited to any and all license fees, whether such fees are agreed by any indemnitee or ordered by a court or administrative body of any competent jurisdiction.

14.11 Substitution For Patented And Specified Articles

- A. Except as noted specifically in the instructions to Bidders or in Contract Documents, whenever in Specifications, material or process is designated by patent or proprietary name or by name of manufacturer, such designation shall be deemed to be used for purpose of facilitating description of material and process desired, and shall be deemed to be followed by the words "or Approved Equal" and Contractor may offer any substitute material or process that Contractor considers "equal" in every respect to that so designated and if material or process offered by Contractor is, in opinion of Owner, Equal in every respect to that so designated, its use will be approved. However, Contractor may utilize this right only by timely submitting Document 01600-A (Substitution Request Form) as provided in Document 00200 (Instructions to Bidders). A substitution will be approved only if it is a true "or equal" item in every aspect of its design and quality, including but not limited to its dimensions, weights, materials of construction, service requirements, durability, functioning, impact on contiguous construction elements, overall schedule and design.

14.12 Interest Of Public Officers

- A. No representative, officer, or employee of Owner no member of the governing body of the locality in which the Project is situated, no member of the locality in which Owner was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the Project, during the tenure of the official or for one year thereafter, shall, as principal, agent, attorney or otherwise, be directly or indirectly interested, in the Contract Documents or the proceeds thereof.

14.13 Limit Of Liability

- A. OWNER, AND EACH OF ITS OFFICERS, BOARD MEMBERS, EMPLOYEES, CONSULTANTS AND AGENTS INCLUDING, BUT NOT LIMITED TO, PROJECT MANAGER AND EACH OTHER OWNER REPRESENTATIVE, SHALL HAVE NO LIABILITY TO CONTRACTOR FOR SPECIAL, CONSEQUENTIAL, OR INCIDENTAL DAMAGES, EXCEPT TO THE LIMITED EXTENT THAT

THESE CONTRACT DOCUMENTS OR APPLICABLE PUBLIC CONTRACTING STATUTES
MAY SPECIFY THEIR RECOVERY.

ARTICLE 15 - WORKING CONDITIONS AND PREVAILING WAGES

15.01 Use Of Site/Sanitary Rules

- A. All portions of the Work shall be maintained at all times in neat, clean and sanitary condition. Contractor shall furnish toilets for use of Contractor's and Subcontractors' employees on the Site where needed, and their use shall be strictly enforced. All toilets shall be properly secluded from public observation, and shall be located, constructed and maintained subject to Owner's approval.
- B. Contractor shall confine construction equipment, the storage of materials and equipment and the operations of workers to the Site and land areas identified in and permitted by Contract Documents and other land and areas permitted by applicable laws and regulations, rights of way, permits and easements or as designated by Owner, and shall not unreasonably encumber the premises with construction equipment or other materials or equipment. Contractor shall assume full responsibility for any damage to any such land or area, any improvement located thereon, or to Owner or occupant thereof resulting from the performance of Work.
- C. During the progress of the Work, Contractor shall keep the Site and the Project free from accumulations of waste materials, rubbish and other debris resulting from the Work. At the completion of the Work, Contractor shall clean the site, remove all waste materials, rubbish and debris from and about the Site as well as all tools, appliances, construction equipment and machinery and surplus materials. Contractor shall leave the premises clean and ready for occupancy by Owner at Completion of Work. Contractor shall restore to original condition all property not designated for alteration by Contract Documents.
- D. Contractor shall not load nor permit any part of any structure or pavement to be loaded in any manner that will endanger the structure or pavement, nor shall Contractor subject any part of Work or adjacent property to stresses or pressures that will endanger it. Contractor shall conduct all necessary existing conditions investigation regarding structural, mechanical, electrical or any other system existing, shall perform Work consistent with such existing conditions, and shall have full responsibility for insufficiencies or damage resulting from insufficiencies of existing systems, equipment or structures to accommodate performing the Work.

15.02 Protection Of Work, Persons, And Property

- A. Contractor shall be responsible for initiating, maintaining and supervising all safety and site security precautions and programs in connection with Work, and shall develop and implement a site security and safety plan throughout construction. Contractor shall comply with all safety requirements specified in any safety program established by Owner, or required by state, federal or local laws and ordinances. Contractor shall be responsible for remedying all theft or damage to Work, property or structures, and all injuries to persons, either on the Site or constituting the Work (e.g., materials in transit), arising from the performance of Work of the Contract Documents from a cause.
- B. Contractor shall comply with all applicable laws and regulations of any public body having jurisdiction for safety of persons or property or to protect them from damage, injury or loss; and shall erect and maintain all necessary safeguards for such safety and protection. Contractor shall notify Owners of adjacent property and of Underground Facilities and utility Owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation and replacement of their property.
- C. Contractor shall remedy all damage, injury or loss to any property referred to above in this Article, caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, supplier, or any other person or organization directly or indirectly employed by any of them to perform or furnish any Work or anyone for whose acts any of them may be liable. Contractor's duties and responsibility for safety and for protection of Work shall continue until such time as all the Work is completed and Final Acceptance of the Work. Owner and its agents do not assume any responsibility for collecting any indemnity from any person or persons causing damage to Contractor's Work.

- D. Contractor shall designate a qualified and experienced safety representative at the Site whose duties and responsibilities shall be the prevention of accidents and the maintaining and supervising of safety precautions and programs.
- E. Owner may, at its option, retain such moneys due under the Contract Documents as Owner deems necessary until any and all suits or claims against Contractor for injury to persons or property shall be settled and Owner receives satisfactory evidence to that effect.
- F. Work within the right-of-way lines of the city and/or Owner and/or State shall be done in accordance with the standards and specifications of the controlling agency. Permit for such work shall be obtained and paid for by the Contractor before executing the work within such right-of-ways.

15.03 Responsibility For Safety And Health

- A. Contractor shall ensure that its and each tier of Subcontractors' employees, agents and invitees comply with applicable health and safety laws while at the Site. These laws include the Occupational Safety and Health Act of 1970 and rules and regulations issued pursuant thereto, and Owner's safety regulations as amended from time to time. Contractor shall comply with all Owner directions regarding protective clothing and gear.
- B. Contractor shall be fully responsible for the safety of its and its Subcontractors' employees, agents and invitees on the Site. Contractor shall notify Owner, in writing, of the existence of hazardous conditions, property or equipment at the Site that are not under Contractor's control. Contractor shall be responsible for taking all the necessary precautions against injury to persons or damage to the property of Contractor, Subcontractors or persons from recognized hazards until the responsible party corrects the hazard.
- C. Contractor shall confine all persons acting on its or its Subcontractors' behalf to that portion of the Site where Work under the Contract Documents is to be performed, Owner-designated routes for ingress and egress thereto, and any other Owner-designated area. Except those routes for ingress and egress over which Contractor has no right of control, within such areas, Contractor shall provide safe means of access to all places at which persons may at any time have occasion to be present.

15.04 Emergencies

- 15.05** In emergencies affecting the safety or protection of persons or Work or property at the Site or adjacent thereto, Contractor, without special instruction or authorization from Owner, is obligated to act to prevent threat and damage, injury or loss, until directed otherwise by Owner. Contractor shall give Owner prompt written notice of actions taken due to emergency.

15.06 Use Of Roadways And Walkways

- A. Contractor shall not unnecessarily interfere with use of any roadway, walkway or other facility for vehicular or pedestrian traffic. Before beginning any interference and only with Owner's prior concurrence, Contractor may provide detour or temporary bridge for traffic to pass around or over the interference, which Contractor shall maintain in satisfactory condition as long as interference continues. Unless otherwise provided in the Contract Documents, Contractor shall bear the cost of these temporary facilities.

15.07 Nondiscrimination

- A. No person or entity shall discriminate in the employment of persons upon public works because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sexual preference, or gender of such persons, except as provided in Section 12940 of the California Government Code. Every contractor for public works violating the provisions of Section 1735 of the California Labor Code is subject to all the penalties imposed for a violation of Chapter 1, Part 7, Division 2 of the California Labor Code.

15.08 Prevailing Wages And Working Hours

- A. Contractor shall pay to persons performing labor in and about Work provided for in the Contract Documents an amount equal to or more than the general prevailing rate of per diem wages for (1) work of a similar character in the locality in which the Work is performed and (2) legal holiday and

- overtime work in said locality. The per diem wages shall be an amount equal to or more than the stipulated rates contained in a schedule that has been ascertained and determined by the Director of the State Department of Industrial Relations and Owner to be the general prevailing rate of per diem wages for each craft or type of workman or mechanic needed to execute this Contract. Contractor shall also cause a copy of this determination of the prevailing rate of per diem wages to be posted at each Site. The Director's schedule of prevailing rates is on file and open for inspection at Kern Medical, Engineering Department, 1700 Mt. Vernon Avenue, Bakersfield, California 93305, and is incorporated herein by this reference.
- B. Contractor shall forfeit, as a penalty to Owner, Fifty Dollars (\$50.00) for each laborer, workman, or mechanic employed in performing labor in and about the Work provided for in the Contract Documents for each Day, or portion thereof, that such laborer, workman or mechanic is paid less than the said stipulated rates for any Work done under the Contract Documents by him or her or by any Subcontractor under him or her, in violation of Articles 1 and 2 of Chapter 1 of Part 7 of Division II of the California Labor Code. The sums and amounts which shall be forfeited pursuant to this Paragraph and the terms of the California Labor Code shall be withheld and retained from payments due to Contractor under the Contract Documents, pursuant to this Document 00700 and the California Labor Code, but no sum shall be so withheld, retained or forfeited except from the final payment without a full investigation by either the State Department of Industrial Relations or by Owner. The Labor Commissioner pursuant to California Labor Code §1775 shall determine the final amount of forfeiture.
- C. Contractor shall insert in every subcontract or other arrangement which Contractor may make for performance of Work or labor on Work provided for in the Contract, provision that Subcontractor shall pay persons performing labor or rendering service under subcontract or other arrangement not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the Work is performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed in the California Labor Code.
- D. Contractor stipulates that it shall comply with all applicable wage and hour laws, including without limitation, California Labor Code §§ 1776 and 1810-1815. Failure to so comply shall constitute a default under this Contract.
- E. Contractor and its Subcontractors shall be responsible for compliance with Labor Code §§ 1810-1815.
1. Eight hours of labor performed in execution of the Contract constitutes a legal day's work. The time of service of any workman employed on the Project is limited and restricted to 8 hours during any one calendar day, and 40 hours during any one calendar week.
 2. Contractor and its Subcontractors shall keep an accurate record showing the name of and actual hours worked each calendar day and each calendar week by each worker employed by him or her in connection with the Project. The record shall be kept open at all reasonable hours for inspection by Owner and the Division of Labor Standards Enforcement.
 3. Contractor or its Subcontractors shall, as a penalty to Owner, forfeit twenty-five dollars (\$25) for each worker employed in the execution of the Contract Documents by the respective Contractor or Subcontractor for each calendar day during which the worker is required or permitted to work more than 8 hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of Labor Code §§ 1810-1815.
 4. Work performed on the Project by employees of Contractor or its Subcontractors in excess of 8 hours per day, and 40 hours during any one week, shall be permitted upon compensation for all hours worked in excess of 8 hours per day at not less than 1 1/2 times the basic rate of pay.
- F. Contractor and its Subcontractors shall be responsible for compliance with Labor Code Section 1776.
1. Contractor and Subcontractors must keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with the Work

- of the Contract Documents. Each payroll record shall contain or be verified by a written declaration as required by Labor Code Section 1776.
2. The payroll records enumerated above must be certified and shall be available for inspection at all reasonable hours at the principal office of the Contractor as required by Labor Code Section 1776.
 - a. Contractor shall inform Owner of the location of records enumerated above, including the street address, city and county, and shall, within five (5) Working Days, provide a notice of a change of location and address.
 - b. Contractor or Subcontractor has ten (10) Working Days in which to comply subsequent to receipt of a written notice requesting the records enumerated above. In the event that the Contractor or Subcontractor fails to comply with the ten-day period, he or she shall, as a penalty to Owner on whose behalf the contract is made or awarded, forfeit \$25.00 for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, these penalties shall be withheld from progress payments then due. Contractor is not subject to a penalty assessment pursuant to this Paragraph due to the failure of a Subcontractor to comply with this Paragraph.
 3. Contractor shall also deliver certified payrolls to Owner with each Application for Payment as set forth above in this Document 00700 (General Conditions).
 4. This project may be subject to monitoring and enforcement by the Department of Industrial Relations (DIR), including the obligation to submit certified payroll records directly to the DIR Compliance Monitoring Unit (CMU) at least monthly in a format prescribed by the Labor Commissioner. The contractor must post job site notices as prescribed by DIR regulation.

15.09 Environmental Controls

- A. Contractor shall comply with all rules, regulations, ordinances, and statutes that apply to any Work performed under the Contract Documents including, without limitation, any toxic, water, stormwater management and soil pollution controls and air pollution controls specified in California Government Code §11017. Contractor shall be responsible for insuring that Contractor's Employees, Subcontractors, and the public are protected from exposure to airborne hazards or contaminated water, soil, or other toxic materials used during or generated by activities on the Site or associated with the Project.

15.010 Shoring Safety Plan

- A. Any conflict between this Paragraph and Division 2 of the Specifications shall be resolved in favor of the most stringent requirement.
- B. At least five (5) Working Days in advance of any excavation five feet or more in depth, Contractor shall submit to Owner a detailed plan showing the shoring, bracing and sloping design (including calculations) and other provisions to be made for worker protection from the hazard of caving ground during the excavation, as required by California Labor Code §6705. A civil or structural engineer registered in California shall prepare and sign any plan that varies from the shoring system standards established by the State Construction Safety Orders.
- C. During the course of Work, Contractor shall be responsible for determining where sloping, shoring, and/or bracing is necessary and the adequacy of the design, installation, and maintenance of all shoring and bracing for all excavation, including any excavation less than five feet in depth. Contractor will be solely responsible for any damage or injuries that may result from excavating or trenching. Owner's acceptance of any drawings showing the shoring or bracing design or Work schedule shall not relieve Contractor of its responsibilities under this Paragraph.
- D. Appoint a qualified supervisory employee who shall be responsible to determine the sloping or shoring system to be used depending on local soil type, water table, stratification, depth, etc.

15.011 Required Registration with the State of California Department of Industrial Relations

- A. Pursuant to California Labor Code 1725.5, all contractors and subcontractors must be registered with the Department of Industrial Relations (DIR) in order to be qualified to bid on, be listed in a bid proposal, or engage in the performance of any public work contract. Detailed information about contractor's responsibilities and online registration may be obtained on the State of California Department of Industrial Relations, Public Works website, <http://www.dir.ca.gov/Public-Works/PublicWorks.html>

END OF DOCUMENT

DOCUMENT 00738

APPRENTICESHIP PROGRAM

ARTICLE 1 - COMPLIANCE REQUIRED

- 1.01** Contractor and Subcontractors shall comply with the requirements of California Labor Code §§1776, 1777.5, and 1777.6 concerning the employment of apprentices by Contractor or Subcontractors. Willful failure to comply may result in penalties, including loss of the right to Bid on or receive public works contracts.

ARTICLE 2 - CERTIFICATION OF APPROVAL

- 2.01** California Labor Code §1777.5, as amended, requires a Contractor or Subcontractor employing tradespersons in any apprenticeable occupation to apply to the joint apprenticeship committee nearest the site of a public works project and which administers the apprenticeship program in that trade for a certification of approval. The certificate shall also fix the ratio of apprentices to journeypersons that will be used in performance of the Contract. The ratio of work performed by apprentices to journeypersons in such cases shall not be less than one *hour* of apprentices work for every five *hours* of labor performed by journeypersons (the minimum ratio for the land surveyor classification shall not be less than one apprentice for each five journeypersons), except:
- A. When unemployment for the previous three month period in the area exceeds an average of 15 percent;
 - B. When the number of apprentices in training in the area exceeds a ratio of one to five;
 - C. When a trade can show that it is replacing at least 1/30 of its membership through apprenticeship training on an annual basis state-wide or locally; or
 - D. Assignment of an apprentice to any work performed under a public works contract would create a condition which would jeopardize his or her life or the life, safety, or property of fellow employees or the public at large or if the specific task to which the apprentice is to be assigned is of such a nature that training cannot be provided by a journeyperson.

ARTICLE 3 - FUND CONTRIBUTIONS

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

ARTICLE 4 - APPRENTICESHIP STANDARDS

- 4.01** Information relative to apprenticeship standards, wage schedules, and other requirements may be obtained from the Director of the California Department of Industrial Relations, or from the Division of Apprenticeship Standards and its branch offices.

END OF DOCUMENT