

January 25, 2017

COUNTY OF SAN MATEO
ALPINE ROAD TRAIL IMPROVEMENTS PROJECT
TOTAL PROJECT APPROXIMATELY 1.84 MILES IN LENGTH
WITH APPURTENANT WORK THERETO
IN SAN MATEO COUNTY

COUNTY PROJECT NO. P23P1
PROJECT FILE NO. E4905

ADDENDUM NO. 1

TO ALL PLAN HOLDERS:

The following **Addendum No. 1** to the above referenced project, dated December 22, 2016, shall be included in the project plans and specifications.

1. Page iv of the TableCon (Table of Contents) Section shall be replaced in the Project Specifications:

Replace page iv of the Table Con Section with page iv (rev).

2. Page 8 of the NC (Notice to Contractors) Section shall be replaced in the Project Specifications:

Replace page 8 of the NC Section with page 8 (rev).

3. Page 18 of the SP (Special Provisions) Section shall be replaced in the Project Specifications:

Replace page 18 of the SP Section with page 18 (rev).

4. Page 26 of the SP (Special Provisions) Section shall be replaced in the Project Specifications:

Replace page 26 of the SP Section with page 26 (rev).

5. Appendix E (cover sheet Appendix E) and Caltrans Encroachment Permit Application No. 0416-NMC1179 shall be replaced in Appendix E of the Project Specifications:

Replace Appendix E cover sheet with Appendix E (rev) cover sheet, and replace Caltrans Encroachment Permit Application No. 0416-NMC1179 with Caltrans Encroachment Permit No. 0416-N-MC-1179 in Appendix E.



To All Plan Holders
Alpine Road Trail Improvements Project
Addendum No. 1
January 25, 2017

Page 2

6. Streambed Alteration Agreement (Page 29 of 30) shall be replaced in Appendix E:

Replace Streambed Alteration Agreement (Page 29 of 30) with signed Streambed Alteration Agreement (Page 29 of 30).

7. Appendix F (cover sheet Appendix F) and Public Contract Code Sections 9204 and 20104 et seq. shall be added in the Project Specifications:

Insert Appendix F (rev) cover sheet and Public Contract Code Sections 9204 and 20104 et seq. after Appendix E Section.

8. Pages 1 through 12 of the AG (Agreement) Section shall be replaced in the Project Specifications:

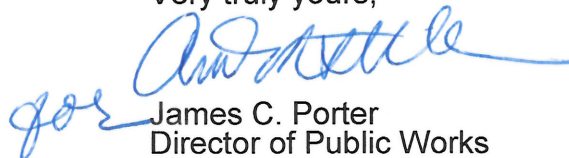
Replace pages 1 through 12 of the AG Section with pages 1 (rev) through 14 (rev).

Please sign and return the attached "Receipt of Addendum No. 1" form. The "Receipt of Addendum No. 1" form MUST be received in this office no later than 12:00 PM, Tuesday, February 7, 2017 or the bid will NOT be considered. The Receipt of Addendum can be faxed to Gil Tourel's attention at (650)361-8220 or email at gtourel@smcgov.org.

If you have any questions or require additional information, please contact Anthony Lum, Carter Choi, or Gil Tourel of our office at (650) 363-4100. They can also be reached by e-mail at:

alum@smcgov.org
cchoi@smcgov.org
gtourel@smcgov.org

Very truly yours,


James C. Porter
Director of Public Works

JCP:AMS:GT:CC:AL

F:\Users\design\dd\E4905000\Advertise\Addendum\E4905 Addendum 1.docx

Encl.- "Receipt of Addendum No. 1" Form

cc: Ann M. Stillman, Deputy Director, Engineering and Resource Protection
Gil Tourel, Principal Civil Engineer, Engineering and Construction
Carter Choi, Senior Civil Engineer, Project Development and Design
Anthony Lum, Associate Civil Engineer, Project Development and Design

January 25, 2017

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COUNTY PROJECT NO. P23P1
PROJECT FILE NO. E4905

RECEIPT OF ADDENDUM NO. 1

I, _____, an authorized
representative for _____, have
received **Addendum No. 1** for the Alpine Road Trail Improvements Project from an authorized
representative of the County of San Mateo, to be included in the Specifications for the above
referenced project.

This form must be signed and received in the offices of the County of San Mateo,
Department of Public Works **no later than 12:00 PM, Tuesday, February 7, 2017.**

“Contractor”

(Print)

(Signature)

(Date)



TABLE OF CONTENTS (Continued)

APPENDIX A

County of San Mateo Waste Management Plan Form
Waste Management Daily Transport Report

APPENDIX B

Reports:
 Geotechnical Engineering Investigation Report
 Arborist Report

APPENDIX C

Sample "Payment Bond" Form
Sample "Performance Bond" Form

APPENDIX D

Daily Personnel and Equipment Log

APPENDIX E

Regulatory Environmental Documents:
 Mitigation Measures and Mitigation Monitoring and Reporting Program
 California Department of Fish and Wildlife Streambed Alteration Agreement
 U.S. Army Corps of Engineer Nationwide Permit
 State Water Resource Control Board Section 401 Permit
 National Marine Fisheries Service Biological Opinion Letter
 Office of Historic Preservation Section 106 Consultation Letter
Caltrans Encroachment Permit 0416-NMC1179

APPENDIX F

Construction Claims:
Public Contract Code Sections 9204 and 20104 et seq

above rates.

The holidays upon which such rates shall be paid shall be all holidays recognized in the collective bargaining agreement applicable to the particular craft, classification, or type of worker employed on the Project.

It is the policy of the County that Contractors on public projects employ their workers and craftsmen from the local labor market whenever possible. "Local Labor Market" is defined as the labor market within the geographical confines of the County of San Mateo, State of California. Consistent with this policy, the Contractor is requested to employ craftsmen and other workers from the local labor market whenever possible to do so.

Each bidder shall submit with the bid, Certificates of Compliance and Intent on a form provided in the "Proposal" section of these Contract Documents, a certificate that bidder is in compliance with the provisions of the Equal Employment Opportunity Requirement of Executive Order 11246, Title VII of the Civil Rights Act of 1964, the California Fair Employment and Housing Act and any other federal, State and local laws and regulations relating to equal employment opportunity. With the execution of said certificates, bidder also agrees that bidder will maintain or develop and implement, during the course of the work concerned, a program of hiring and employment, conducted without regard to race, religion, color, national origin, ancestry, sexual orientation, or sex of the applicants. With this certification, bidder shall submit any and all information that may be required by the County in connection with the particular project.

Each bidder is hereby notified of Section **9204 and Section 20104 et seq.** of the Public Contract Code as those Sections (attached hereto as Appendix F) relate to resolution of construction claims, and to Section 3186 of the Civil Code, as amended January 1, 1999 with regard to stop notices and public entity's rights to retain monies in order to provide for that entity's reasonable cost of litigation. The bidder is further notified that all provisions of Section **9204 and 20104 et seq.** of the Public Contract Code and Section 3186 of the Civil Code, as outlined above shall be considered as incorporated into and become an integral part of these specifications.

Questions relating to equal employment should be directed to the San Mateo County Department of Public Works, Equal Employment Opportunity Program, 555 County Center, 5th Floor, Redwood City, CA 94063-1665, telephone (650) 363-4100.

include but not be limited to cost associated with compliance with Confined Space Entry Regulations shall be at the expense of the Contractor.

The Contractor is further advised that the County has applied for an Encroachment Permit from the State of California, Department of Transportation. The Contractor's attention is directed to the fact that, prior to start of work either within the State of California right-of-way or affecting State of California facilities, the Contractor will be required to obtain an Encroachment Permit in accordance with the conditions stated in the Encroachment Permit (Reference Permit Number: 0416-NMC1179) to be obtained by the County at the following State of California, Department of Transportation office:

**CALTRANS, DISTRICT 04
PERMIT ENGINEER
111 Grand Avenue
Oakland, CA 94623**

County shall deduct \$5,000 from Contractor's Progress Payment until Contractor has provided proof of obtaining encroachment permit.

Full compensation for conforming to the requirements of this permit, including the cost of the permit (\$3,280.00), shall be considered as included in the unit prices paid for the various Contract items of work, and no additional compensation will be allowed therefore.

Contractor's attention is directed to Appendix E, "Permits, Mitigation Measures and Mitigation Monitoring and Reporting Program," of these Project Specifications.

The Contractor is expected to review and understand the above mentioned permit conditions, and is expected to complete the project in accordance with the Agreements set forth. Full compensation for conforming to the requirements of these regulatory documents shall be considered as included in the unit prices paid for the various Contract items of work, and no additional compensation will be allowed therefore. All environmental documents mentioned shall be made available on site at all times for review by state, federal, or local staff.

7-6. Highway Construction Equipment

Attention is directed to Section 7-1.01D, "Vehicle Code," of the Standard Specifications and these Special Provisions.

Pursuant to the authority contained in Section 591 of the Vehicle Code, the County has determined that, within such areas as are within the limits of the project and

security for any money withheld to ensure performance of the Contract in accordance with Government Code Section 4590.

The filing of a Notice of Completion for the work herein provided shall not constitute an acceptance by the County of latent defects in said work.

9-3. Payments Withheld from Contractor

The County may withhold sufficient monies from any sum otherwise due the Contractor, pursuant to this Agreement, to protect the County against loss on account of:

- A. Repair or replacement of street pavement or base, and/or culverts or other structures, on or near the work, damaged by reason of the Contractor's operations due to hauling materials or moving heavy equipment.
- B. Defective work not corrected.
- C. Claims filed or reasonable evidence indicating probable filing of claims.
- D. Failure of the Contractor to make payments properly to the subcontractors for material or labor.
- E. Reasonable doubt that the Contract can be completed for the balance then unpaid.
- F. Damage to another Contractor.
- G. Failure of the Contractor to provide water pollution control.

Payment of the amounts withheld shall be made upon the determination by the County that the withholding of such amounts is no longer necessary.

9-4. Stop Notices

Section 9-1.05, "Stop Notices," of the Standard Specifications is superseded by the following:

"The County of San Mateo, by and through the Department of Public Works or other appropriate County office or officers, may at its option and at any time retain any amounts due the Contractor, sums sufficient to cover claims filed pursuant to Section 3179 et seq. of the Civil Code."

9-5. Construction Claims

Each Bidder is hereby notified of **Section 9204 and Section 20104 et seq.** of the Public Contract Code as those Sections (attached hereto as Appendix F) relate to the resolution of construction claims and to Section 3186 of the Civil Code, as amended January 1, 1999 with regard to stop notices and public entity's rights to retain monies in order to provide for that entity's reasonable cost of litigation. The Bidder is further notified that all provisions of **Sections 9204 and 20104 et seq.** of the Public Contract Code and Section 3186 of the Civil Code, as outlined above, shall be considered as incorporated into and become an integral part of these Specifications.

Appendix E

Regulatory Environmental Documents:

- Mitigation Measures and Mitigation Monitoring and Reporting Program
- California Department of Fish and Wildlife Streambed Alteration Agreement
- U.S. Army Corps of Engineer Nationwide Permit
- State Water Resource Control Board Section 401 Permit
- National Marine Fisheries Service Biological Opinion Letter
- Office of Historic Preservation Section 106 Consultation Letter

Permit:

- Caltrans Encroachment Permit 0416-NMC1179 (*Reference Section 7-5 “Permits and Licenses,” of these Special Provisions*)

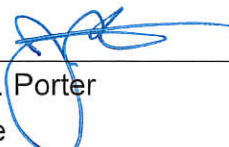
AUTHORIZATION

This Agreement authorizes only the project described herein. If Permittee begins or completes a project different from the project the Agreement authorizes, Permittee may be subject to civil or criminal prosecution for failing to notify CDFW in accordance with FGC section 1602.

CONCURRENCE

The undersigned accepts and agrees to comply with all provisions contained herein.

For County of San Mateo Public Works



James C. Porter
Permittee

1/9/17

Date

For Department of Fish and Wildlife



Craig J. Weightman
Environmental Program Manager

1/18/17

Date

Prepared by: Suzanne DeLeón
Environmental Scientist

Date Sent: August 23, 2016

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION
ENCROACHMENT PERMIT

TR-0120 (REV 6/2012)

Permit No.

04-16-N-MC-1179

In compliance with (Check one):

- ☒ Your application of 5/19/2016
- ☐ Utility Notice No. _____ of _____
- ☐ Agreement No. _____ of _____
- ☐ R/W Contract No. _____ of _____

TO: ☐ County of San Mateo
555 County Center, 5th Floor
Redwood City, CA 94063
Email: cchoi@smcgov.org
Attn: Carter Choi
☐ Phone: (650)599-1452

Dist/Co/Rte/PM

04/SM/280/0.04

DATE

1/18/17

Fee Paid
\$

Deposit
\$

Performance Bond Amount
\$

Payment Bond Amount
\$

Bond Company

Bond Number (1)

Bond Number (2)

☐ , PERMITTEE

and subject to the following, **PERMISSION IS HEREBY GRANTED** to:

Repair trail and creek beyond shoulder of Alpine Road and adjacent to stream bank, including clearing and grubbing, constructing soldier-pile retaining walls, stabilizing creek bank, rehabilitating asphalt concrete trail, and planting/re-vegetating, on State Highway 04-SM-280, Post Mile 0.04, in the City of Menlo Park.

A minimum of one week prior to the start of work under this permit, notice shall be given and advance approval of construction detail, operations, public safety and traffic control shall be obtained from State Representative Fred Booshehri, 2350 Page Mill Road, Palo Alto, CA 94304, fred.booshehri@dot.ca.gov, (650) 222-7241, weekdays between 7:00 AM and 3:30 PM.

All permitted work requires the permittee to apply for and obtain a work authorization number prior to start of work. See the attached "Encroachment Permit Project Work Scheduling Procedures" and the attached "Permit Project Work Scheduling Request Form." Additional time beyond the minimum seven-day advanced notice required in the above paragraph may be required for obtaining approval.

THIS PERMIT IS NOT A PROPERTY RIGHT AND DOES NOT TRANSFER WITH THE PROPERTY TO A NEW OWNER.

The following attachments are also included as part of this permit (Check applicable):

- | | | |
|---|-----------------------------|---|
| <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No | General Provisions (TR-0045) |
| <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No | Utility Maintenance Provisions _____ |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | Special Provisions _____ |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | A Cal-OSHA permit, if required: Permit No. _____ |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | As-Built Plans Submittal Route Slip for Locally Advertised Projects |
| <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No | Water Pollution Control Documents (SWPPP/WPCP) |

In addition to fee, the permittee will be billed actual costs for:

- | | | |
|---|--|------------|
| <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No | Review |
| <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No | Inspection |
| <input checked="" type="checkbox"/> Yes | | Field Work |

(If any Caltrans effort expended)

☐ Yes ☐ No The information in the environmental documentation has been reviewed and considered prior to approval of this permit.

This permit is void unless the work is completed before January 31, 2018.

This permit is to be strictly construed and no other work other than specifically mentioned is hereby authorized.

No project work shall be commenced until all other necessary permits and environmental clearances have been obtained.

Permit Engineer: R/A

c: FBooshehri, Construction
TMC
ESherman III, Maintenance
Shari Holland-Marquez, PG&E

APPROVED:

DAVID SALLADAY, District Permit Engineer

BY:

AMJAD NASEER, Senior Permit Engineer

ADA Notice

For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-6410 or TDD (916) 654-3880 or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

All work shall comply with the attached "Encroachment Permit General Provisions" (TR-0045, Rev. 05/2007) (available at <http://www.dot.ca.gov/hq/traffops/developserv/permits/>).

When approved, traffic control under this permit shall comply with 2015 Caltrans' Standard Plans T9 through T14 (available at <http://www.dot.ca.gov/des/oe/construction-contract-standards.html>).

Within the State right-of-way, shoulder and/or vegetation areas may be closed for trail and creek bank repair, as necessary.

No lane closure is necessary or permitted.

When operations are conducted, the permittee shall furnish, place, and maintain signs and safety equipment per Part 6, Temporary Traffic Control, of the "California Manual on Uniform Traffic Control Devices" (CAMUTCD, available at http://www.dot.ca.gov/hq/traffops/engineering/mutcd/ca_mutcd2014.htm).

If an accident or other incident (related to or not related to the permitted activity) occurs within, or close to the permitted activity, the permittee shall immediately stop work and remove traffic controls from the highway unless public health, welfare and safety is compromised by unfinished work. Only traffic control to protect open excavations may remain in place. After free traffic flow is restored, work per the provisions of the permit may be returned.

All the permittee's personnel shall wear appropriate and approved personal protective equipment per Chapter 12 of Caltrans "Safety Manual" (available at http://www.dot.ca.gov/hq/opo/safety/safetymanual/Chap_12-Sept2012.pdf), including hard hats and bright-colored safety vests, shirts or jackets with retro-reflective material, while on the State right-of-way.

The permittee shall comply with the code of safe practices (available at http://www.dot.ca.gov/hq/construc/publications/code_of_safe_practices.pdf), when working within the State right-of-way.

The job site shall be enclosed by suitable barricades, signs, and lights to warn and protect traffic effectively, as approved by the State Representative.

The contractor for the permittee shall apply for a separate encroachment permit ("Double Permit" or "DP") for the work authorized therein, and the application shall be accompanied by a check in the amount (40 x \$82/hr. = \$3,280.00) to cover the permit processing and inspection fee per the current State hourly rate (available at <http://www.dot.ca.gov/hq/traffops/developserv/permits/>). Additional inspection hours, if needed, will be charged at the current State hourly rate.

The permittees shall take necessary precautions to ensure safety of the worker and the public when working near the 6-inch high pressure gas line (175-375psi) positively identified by the permittee on permittee's plans. If required by the field conditions and/or the permit clause requirements blow, the permittee shall protect in place the said gas line.

Existing utilities, especially including the high-priority 6-inch gas main (175-375 psi), within the project limits shall either meet the following minimum clearances, be protected in place, or be relocated:

- 18 inches below the grading plane,
- 12 inches below disturbed ground,
- 12 inches below the grading plane of drainage structures,
- 18 inches below the flow line of proposed unlined ditches, and
- 24 inches horizontally from the outside of proposed piles and foundations, or the side of planned excavations.

It is the permittee's & the utility owner's responsibility to provide appropriate protection of existing utilities during construction. The permittee shall field verify minimum clearances by additional potholing during construction.

Streets and highways in the San Francisco Bay Area contain a significant number of existing underground utilities. This includes traffic signal conduits that are installed 9 inches or less in depth. The permittee is responsible for necessary site investigations for identification of the location and depth of existing underground facilities prior to excavation (e.g., pothole or hand-dig) to avoid damage or disruption in services. The State is not subscribed to Underground Services Alert (USA).

Certain details of work authorized herein are shown on the permittee's approved plans.

Upon completion of the work permitted herein, the permittee shall submit as-built plans to the State Representative following the requirements set forth in the General Provision No. 22.

The permittee shall be responsible for all compliance with the Caltrans Storm Water Program and NPDES permit requirements.

Immediately following completion of the work permitted herein, the permittee shall fill out and mail the Notice of Completion attached to this permit.

Appendix F

Construction Claims:

**Public Contract Code
Sections 9204 and 20104 et seq.**

Public Contract Code Section 9204

SECTION 1.

(a) The Legislature finds and declares that it is in the best interests of the state and its citizens to ensure that all construction business performed on a public works project in the state that is complete and not in dispute is paid in full and in a timely manner.

(b) Notwithstanding any other law, including, but not limited to, Article 7.1 (commencing with Section 10240) of Chapter 1 of Part 2, Chapter 10 (commencing with Section 19100) of Part 2, and Article 1.5 (commencing with Section 20104) of Chapter 1 of Part 3, this section shall apply to any claim by a contractor in connection with a public works project.

(c) For purposes of this section:

(1) "Claim" means a separate demand by a contractor sent by registered mail or certified mail with return receipt requested, for one or more of the following:

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

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

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

(2) "Contractor" means any type of contractor within the meaning of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code who has entered into a direct contract with a public entity for a public works project.

(3) (A) "Public entity" means, without limitation, except as provided in subparagraph (B), a state agency, department, office, division, bureau, board, or commission, the California State University, the University of California, a city, including a charter city, county, including a charter county, city and county, including a charter city and county, district, special district, public authority, political subdivision, public corporation, or nonprofit transit corporation wholly owned by a public agency and formed to carry out the purposes of the public agency.

(B) "Public entity" shall not include the following:

(i) The Department of Water Resources as to any project under the jurisdiction of that department.

(ii) The Department of Transportation as to any project under the jurisdiction of that department.

(iii) The Department of Parks and Recreation as to any project under the jurisdiction of that department.

(iv) The Department of Corrections and Rehabilitation with respect to any project under its jurisdiction pursuant to Chapter 11 (commencing with Section 7000) of Title 7 of Part 3 of the Penal Code.

(v) The Military Department as to any project under the jurisdiction of that department.

(vi) The Department of General Services as to all other projects.

(vii) The High-Speed Rail Authority.

(4) "Public works project" means the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement of any kind.

(5) "Subcontractor" means any type of contractor within the meaning of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code who either is in direct contract with a contractor or is a lower tier subcontractor.

(d) (1) (A) Upon receipt of a claim pursuant to this section, the public entity to which the claim applies shall conduct a reasonable review of the claim and, within a period not to exceed 45 days, shall provide the claimant a written statement identifying what portion of the claim is

disputed and what portion is undisputed. Upon receipt of a claim, a public entity and a contractor may, by mutual agreement, extend the time period provided in this subdivision.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 2.

The Legislature finds and declares that it is of statewide concern to require a charter city, charter county, or charter city and county to follow a prescribed claims resolution process to ensure there are uniform and equitable procurement practices.

SEC. 3.

If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

Public Contract Code Section 20104 et seq.

20104.

(a) (1) This article applies to all public works claims of three hundred seventy-five thousand dollars (\$375,000) or less which arise between a contractor and a local agency.

(2) This article shall not apply to any claims resulting from a contract between a contractor and a public agency when the public agency has elected to resolve any disputes pursuant to Article 7.1 (commencing with Section 10240) of Chapter 1 of Part 2.

(b) (1) "Public work" means "public works contract" as defined in Section 1101 but does not include any work or improvement contracted for by the state or the Regents of the University of California.

(2) "Claim" means a separate demand by the contractor for (A) a time extension, (B) payment of money or damages arising from work done by, or on behalf of, the contractor pursuant to the contract for a public work and payment of which is not otherwise expressly provided for or the claimant is not otherwise entitled to, or (C) an amount the payment of which is disputed by the local agency.

(c) The provisions of this article or a summary thereof shall be set forth in the plans or specifications for any work which may give rise to a claim under this article.

(d) This article applies only to contracts entered into on or after January 1, 1991.

(Amended by Stats. 2010, Ch. 697, Sec. 47. Effective January 1, 2011. Operative July 1, 2012, by Sec. 105 of Ch. 697.)

20104.2.

For any claim subject to this article, the following requirements apply:

(a) The claim shall be in writing and include the documents necessary to substantiate the claim. Claims must be filed on or before the date of final payment. Nothing in this subdivision is intended to extend the time limit or supersede notice requirements otherwise provided by contract for the filing of claims.

(b) (1) For claims of less than fifty thousand dollars (\$50,000), the local agency shall respond in writing to any written claim within 45 days of receipt of the claim, or may request, in writing, within 30 days of receipt of the claim, any additional documentation supporting the claim or relating to defenses to the claim the local agency may have against the claimant.

(2) If additional information is thereafter required, it shall be requested and provided pursuant to this subdivision, upon mutual agreement of the local agency and the claimant.

(3) The local agency's written response to the claim, as further documented, shall be submitted to the claimant within 15 days after receipt of the further documentation or within a period of time no greater than that taken by the claimant in producing the additional information, whichever is greater.

(c) (1) For claims of over fifty thousand dollars (\$50,000) and less than or equal to three hundred seventy-five thousand dollars (\$375,000), the local agency shall respond in writing to all written claims within 60 days of receipt of the claim, or may request, in writing, within 30 days of receipt of the claim, any additional documentation supporting the claim or relating to defenses to the claim the local agency may have against the claimant.

(2) If additional information is thereafter required, it shall be requested and provided pursuant to this subdivision, upon mutual agreement of the local agency and the claimant.

(3) The local agency's written response to the claim, as further documented, shall be submitted to the claimant within 30 days after receipt of the further documentation, or within a

period of time no greater than that taken by the claimant in producing the additional information or requested documentation, whichever is greater.

(d) If the claimant disputes the local agency's written response, or the local agency fails to respond within the time prescribed, the claimant may so notify the local agency, in writing, either within 15 days of receipt of the local agency's response or within 15 days of the local agency's failure to respond within the time prescribed, respectively, and demand an informal conference to meet and confer for settlement of the issues in dispute. Upon a demand, the local agency shall schedule a meet and confer conference within 30 days for settlement of the dispute.

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

(f) This article does not apply to tort claims and nothing in this article is intended nor shall be construed to change the time periods for filing tort claims or actions specified by Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code.

(Added by Stats. 1994, Ch. 726, Sec. 22. Effective September 22, 1994.)

20104.4.

The following procedures are established for all civil actions filed to resolve claims subject to this article:

(a) Within 60 days, but no earlier than 30 days, following the filing or responsive pleadings, the court shall submit the matter to nonbinding mediation unless waived by mutual stipulation of both parties. The mediation process shall provide for the selection within 15 days by both parties of a disinterested third person as mediator, shall be commenced within 30 days of the submittal, and shall be concluded within 15 days from the commencement of the mediation unless a time requirement is extended upon a good cause showing to the court or by stipulation of both parties. If the parties fail to select a mediator within the 15-day period, any party may petition the court to appoint the mediator.

(b) (1) If the matter remains in dispute, the case shall be submitted to judicial arbitration pursuant to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, notwithstanding Section 1141.11 of that code. The Civil Discovery Act (Title 4 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure) shall apply to any proceeding brought under this subdivision consistent with the rules pertaining to judicial arbitration.

(2) Notwithstanding any other provision of law, upon stipulation of the parties, arbitrators appointed for purposes of this article shall be experienced in construction law, and, upon stipulation of the parties, mediators and arbitrators shall be paid necessary and reasonable hourly rates of pay not to exceed their customary rate, and such fees and expenses shall be paid equally by the parties, except in the case of arbitration where the arbitrator, for good cause, determines a different division. In no event shall these fees or expenses be paid by state or county funds.

(3) In addition to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, any party who after receiving an arbitration award requests a trial de novo but does not obtain a more favorable judgment shall, in addition to payment of costs and fees under that chapter, pay the attorney's fees of the other party arising out of the trial de novo.

(c) The court may, upon request by any party, order any witnesses to participate in the mediation or arbitration process.

(Amended by Stats. 2004, Ch. 182, Sec. 54. Effective January 1, 2005. Operative July 1, 2005, by Sec. 64 of Ch. 182.)

20104.6.

(a) No local agency shall fail to pay money as to any portion of a claim which is undisputed except as otherwise provided in the contract.

(b) In any suit filed under Section 20104.4, the local agency shall pay interest at the legal rate on any arbitration award or judgment. The interest shall begin to accrue on the date the suit is filed in a court of law.

(Added by Stats. 1994, Ch. 726, Sec. 22. Effective September 22, 1994.)

AGREEMENT

THIS AGREEMENT, made and entered into this ____ day of _____, 2017, by and between the COUNTY OF SAN MATEO, State of California, hereinafter called the "County" and _____, hereinafter called the "Contractor,"

W I T N E S S E T H:

THAT, for and in consideration of the mutual covenants and agreements hereinafter contained, the parties hereto agree as follows:

I. Services to be performed by Contractor: The Contractor will at his own proper cost and expense, do all the work and furnish all the labor, materials, equipment and utilities necessary to perform and complete in good workmanlike and substantial manner, and to the satisfaction of the Director of Public Works of the County of San Mateo, hereinafter called "Engineer," for the project

ALPINE ROAD TRAIL IMPROVEMENTS PROJECT

**TOTAL PROJECT APPROXIMATELY 1.84 MILES IN LENGTH
WITH APPURTENANT WORK THERETO
IN SAN MATEO COUNTY**

**COUNTY PROJECT NO. P23P1
PROJECT FILE NO. E4905**

and all in strict accordance with the Plans, Specifications, Notice to Contractors, Special Provisions and Proposal on file in the office of the Director of Public Works, which said Plans, Specifications, Notice to Contractors, Special Provisions and Proposal are hereby specifically referred to and by such reference made a part thereto.

II. Payments: The Contractor will receive and accept and the County will pay the prices specified in the Contractor's Proposal, dated _____, 2017, on file in the office of the Director of Public Works of the County of San Mateo and by reference made a part of this Agreement, as full compensation for furnishing all labor, materials and equipment for doing all the work contemplated and embraced in this Agreement; the Contractor assumes any and all loss or damage arising out of the nature of the work aforesaid, or from the action of the

elements, or from any unforeseen difficulties or obstructions which may arise or be encountered in the prosecution of the work until its acceptance by the County, and for all risks of every description connected with the work, and also assumes any and all expenses incurred by or in consequence of the suspension or discontinuance of work and for well and faithfully completing the work, and the whole thereof, in the manner and to the Plans, Specifications and Special Provisions and requirements of the Engineer hereunder. The Contractor shall guarantee all materials and workmanship for a period of one (1) year from date of acceptance of the project by the Director of Public Works. Any defects due to faulty materials, method of installation or workmanship within that period shall be repaired by the Contractor promptly upon notice by the Engineer, at the expense of the Contractor.

It is distinctly understood that the estimate set forth in the Notice to Contractors is only an approximation of the amount of work to be done and the County does not expressly or by implication agree that the actual amount of work will correspond with the amount set forth therein, and payment shall be made to the Contractor as above set forth.

Payment to the Contractor shall be made progressively by the County for the work and materials furnished under this Agreement in accordance with the provisions of Section 9 of the Special Provisions portion of these Contract documents.

III. Term: Time is of the essence in the Agreement, and the work to be performed hereunder shall be completed within

FORTY-FIVE (45) WORKING DAYS

from the date of commencement of the work, which commencement shall be within **TEN (10) CALENDAR DAYS** after receiving Notice to Proceed from the Engineer.

IV. Termination: This Contract is subject to termination as provided by Section 4410 and Section 4411 of the Government Code of the State of California, being portions of the Emergency Termination of Public Contracts Act of 1949. In the event that the Contract is terminated pursuant to said sections, compensation to the Contractor shall be determined on the basis of the reasonable value of the work done, including preparatory work. As an exception to the foregoing, in the case of any fully completed separate item or portion of the work for which there is a separate Contract price, the Contract price shall control.

V. Relationship of Parties: Contractor agrees and understands that the work/services performed under this Agreement are performed as independent contractor and not

as an employee of the County and that Contractor acquires none of the rights, privileges, powers, or advantages of County employees.

VI. Merger Clause: This Agreement, together with the Notice to Contractors, the Contractor's Proposal, the Plans, Specifications and Special Provisions and the Payment and Performance Bonds form the Contract, and said documents **incorporated herein** by reference become as fully a part of the Contract as if hereto attached or herein set forth in full. The Standard Specifications of the County of San Mateo, State of California, which, except as specifically noted in the County Contract documents and specifications, are identical with the Standard Specifications of the State of California, Department of Transportation, dated May 2006, and are on file with the County Manager/Clerk of the Board of Supervisors, County of San Mateo, are incorporated herein by reference as a part of the Contract documents and shall apply to this project except where the terms of this Agreement or other Contract documents are inconsistent therewith, in which case the provisions of this Contract shall prevail.

This Agreement constitutes the sole Agreement of the parties hereto and correctly states the rights, duties, and obligations of each party as of this document's date. Any prior agreement, promises, negotiations, or representations between the parties not expressly stated in this document are not binding. All subsequent modifications shall be in writing and signed by the parties.

VII. Surety Bonds: The performance of this Contract is secured by a "Payment" Surety Bond in the sum of one hundred percent (100%) of the Contract bid, and a "Performance" Surety Bond in the sum of one hundred percent (100%) of the Contract bid. "Payment" and "Performance" Surety Bonds have been approved as to form by County Counsel, of which samples of same are attached as Appendix C in the Special Provisions.

VIII. Insurance: The Contractor shall not commence work under this Contract until he has obtained all insurance required under this paragraph and such insurance has been approved by the County, nor shall the Contractor allow any subcontractor to commence work on his subcontract until all similar insurance required of the subcontractor has been so obtained. The Contractor shall furnish County with certificates of insurance evidencing the required coverage, and there shall be a specific contractual liability endorsement extending the Contractor's coverage to include the contractual liability assumed by the Contractor pursuant to this Contract. Certificates of Insurance shall be filed with the County within **TEN (10) WORKING DAYS** after award of the contract. These certificates shall specify or be endorsed to provide that

THIRTY (30) CALENDAR DAYS' notice must be given, in writing, to County of any pending change in the limits of liability or of any cancellation or modifications of the policy.

A. Worker's Compensation and Employer's Liability Insurance

The Contractor shall have in effect during the entire life of this Contract, Worker's Compensation and Employer's Liability Insurance providing full statutory coverage; and in case any work is sublet, the Contractor shall require all subcontractors similarly to provide Worker's Compensation and Employer's Liability Insurance to full statutory limits. In signing this Contract, the Contractor makes the following certifications, required by Section 1861 of the Labor Code:

“I am aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of the code, and I will comply with such provisions before commencing the performance of the work of this Contract.”

B. Liability Insurance

The Contractor shall take out and maintain during the life of this Contract such Bodily Injury Liability and Property Damage Liability Insurance as shall comply with Section 7-1.12, “Indemnification and Insurance,” of the Standard Specifications and protect him/her and any subcontractor performing work covered by this Contract, from claims for damages for bodily injury, including accidental death, as well as from claims for property damage including third party property damage, to include coverage on property in the care, custody and control of the Contractor, and also including coverage for what are commonly known as the “X, C and U” exclusions (having to do with blasting, collapse and underground property damage), which may arise from the Contractor's operations under this Contract, whether such operations be by himself/herself or by any subcontractor or by anyone directly or indirectly employed by either of them and the amounts of such insurance shall be **ONE MILLION DOLLARS (\$1,000,000)** combined single bodily injury and property damage for each occurrence. The County of San Mateo, Stanford University, Pacific Gas and Electric, California Water Service, West Bay Sanitary District, Caltrans, and their officers, agents, servants and employees, shall be named as additional insureds on any such policies of insurance, which shall also contain a provision stating that the insurance afforded thereby to the

County of San Mateo, Stanford University, Pacific Gas and Electric, California Water Service, West Bay Sanitary District, Caltrans, and their officers, agents, servants and employees, shall be primary insurance to the full limits of liability of the policy, and that if the County of San Mateo, Stanford University, Pacific Gas and Electric, California Water Service, West Bay Sanitary District, Caltrans, or their officers and employees, have other insurance against a loss covered by such policy, such other insurance shall be excess insurance only.

Such statements, mentioned above, shall be included on a separate endorsement to be submitted to the County with the Certificate of Insurance.

Such insurance shall include:

1) Comprehensive General Liability..... \$1,000,000

2) Motor Vehicle Liability Insurance..... \$1,000,000

3) Professional Liability..... \$1,000,000

- C. In case of the breach of any provision of this Article, the County, at its option, may take out and maintain at the expense of the Contractor, or subcontractor, such insurance as the County may deem proper and may deduct the cost of taking out and maintaining such insurance from any sums which may be due, or become due, to the Contractor, under this Contract.

D. Hold Harmless

The Contractor's attention is directed to Section 7-1.12, "Indemnification and Insurance," of the Standard Specifications.

The provisions contained in Section 7-1.12, "Indemnification and Insurance," of the Standard Specifications of the State of California, Department of Transportation, shall be applicable with the understanding that where said provisions specifically refer to the State of California, a department or division of the State or an official, officer or employee of the State, said provision shall be interpreted to refer to the County of San Mateo, Stanford University, Pacific Gas and Electric, California Water Service, West Bay Sanitary District, Caltrans, and all officers, agents, servants and employees thereof connected with the work, including but not limited to the Director of Public Works, their duly authorized representatives, other appropriate department, division, official, officer or employee of the County of San Mateo, Stanford University, Pacific Gas and Electric, California Water Service, West Bay Sanitary District, and Caltrans.

The provisions of Section 7-1.12A, “Indemnification,” of the Standard Specifications are superseded by the following:

“To the full extent permitted by law, Contractor shall indemnify and save harmless the County, its officers, employees, and servants from all claims, suits, or actions of every name, kind, and description, brought for, or on account of:

1. Injuries to or death of any person, including Contractor, its officers, employees and servants, or
2. Damage to any property of any kind whatsoever and to whomsoever belonging, or
3. Any sanctions, penalties or claims of damages resulting from Contractor’s failure to comply with applicable laws, or
4. Any other loss or cost resulting from the contractor’s negligent or reckless acts or omissions or willful misconduct in connection with the performance of any work required of Contractor or payments made pursuant to this Agreement, provided that this shall not apply to injuries or damages for which the County has been found in a court of competent jurisdiction to be liable by reason of its own negligence or willful misconduct.

The duty of Contractor to indemnify and save harmless, as set forth herein, shall include the duty to defend, as set forth In Section 2778 of the California Civil Code.

The obligations set forth in this Section shall continue beyond the term of this Agreement as to any act or omission which occurred during or under this Agreement.”

E. Compensation

All insurance required by the paragraphs of this section shall be obtained and maintained by the Contractor at Contractor’s own expense and County shall not compensate Contractor for said insurance expenses other than as they are included in the Contract prices the County pays for the various items of work.

F. Nothing herein contained shall be construed as limiting in anyway the extent to which the Contractor may be held responsible for payments of damages resulting from his operation.

IX. Prevailing Wage: Contractor hereby agrees to pay not less than prevailing rates of wages, which are effective on the date the Notice to Contractors is issued for each craft or type of workman or mechanic needed to execute the Contract as provided for by the County for

the performance of public work., and be responsible for compliance with all the provisions of the California Labor Code, Article 2-Wages, Chapter 1, Part 7, Division 2, Section 1770 et seq. and Section 1810 et seq., and particularly Section 1775 and 1776(a) thereof. A copy of the prevailing wage scale established by the Department of Industrial Relations is on file in the office of the Director of Public Works, and available at www.dir.ca.gov/DLSR or by phone at 415-703-4774. California Labor Code Section 1776(a) requires each contractor and subcontractor keep accurate payroll records of trades workers on all public works projects and to submit copies of certified payroll records upon request.

Additionally, pursuant to State Senate Bill SB 854 (Stat. 2014, chapter 28), effective January 1, 2015:

- No contractor or subcontractor may be listed on a bid proposal for a public works project (submitted on or after March 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].
- No contractor or subcontractor may be awarded a contract for public work on a public works project (awarded on or after April 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.
- This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

X. California Labor Code: The Contractor expressly covenants and agrees to comply with all the provisions of the Labor Code of the State of California limiting the hours of labor on public works to eight (8) hours during any one calendar day, and forty (40) hours in any one calendar week, requiring the payment of not less than the prevailing wage rates, and further agrees to the forfeitures provided for in said Labor Code and as set forth in Section 7, “Legal Relations and Responsibility,” of the Standard Specifications and all amendments thereto, in the event of a violation of any of the provisions thereof during the course of execution of this Contract.

The Contractor expressly agrees to be responsible for compliance with all the provisions of Sections 1776 and 1777.5 of the California Labor Code.

XI. Non-Discrimination and Other Requirements:

- a. General Non-discrimination:

No person shall be excluded from participation in, denied benefits of, or be subject to discrimination under this Agreement on the basis of their race, color, religion, national origin, ancestry, age, disability (physical or mental), sex, sexual orientation, gender identity, marital or domestic partner status, religion, political beliefs or affiliation, familial or parental status (including pregnancy, childbirth or related conditions), medical condition (including cancer-related), military service, or genetic information. Contractor shall ensure full compliance with Federal, state and local laws, directives and executive orders regarding non-discrimination for all employees and Subcontractors under this Agreement.

b. Equal Employment Opportunity:

Contractor shall ensure equal employment opportunity based on objective standards of recruitment, classification, selection, promotion, compensation, performance evaluation, and management relations for all employees under this Agreement.

Contractor's equal employment policies shall be made available to County upon request.

c. Section 504 of the Rehabilitation Act of 1973:

Contractor shall comply with Section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified individual with a disability shall, solely by reason of a disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in the performance of any services this Agreement. This Section applies only to contractors who are providing services to members of the public under this Agreement.

d. Compliance with County's Equal Benefits Ordinance:

Contractor shall comply with all laws relating to the provision of benefits to its employees and their spouses or domestic partners, including, but not limited to, such laws prohibiting discrimination in the provision of such benefits on the basis that the spouse or domestic partner of the Contractor's employee is of the same or opposite sex as the employee.

e. Discrimination Against Individuals with Disabilities:

The nondiscrimination requirements of 41 C.F.R. 60-741.5(a) are incorporated into this Agreement as if fully set forth here, and Contractor and any subcontractor shall abide by the requirements of 41 C.F.R. 60-741.5(a). This regulation prohibits

discrimination against qualified individuals on the basis of disability and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.

f. History of Discrimination:

Contractor certifies that no finding of discrimination has been issued in the past 365 days against Contractor by the Equal Employment Opportunity Commission, the California Department of Fair Employment and Housing, or any other investigative entity. If any finding(s) of discrimination have been issued against Contractor within the past 365 days by the Equal Employment Opportunity Commission, the California Department of Fair Employment and Housing, or other investigative entity, Contractor shall provide County with a written explanation of the outcome(s) or remedy for the discrimination prior to execution of this Agreement. Failure to comply with this Section shall constitute a material breach of this Agreement and subjects the Agreement to immediate termination at the sole option of the County.

g. Reporting; Violation of Non-discrimination Provisions:

Contractor shall report to the County Manager the filing in any court or with any administrative agency of any complaint or allegation of discrimination on any of the bases prohibited by this Section of the Agreement or the Section titled "Compliance with Laws". Such duty shall include reporting of the filing of any and all charges with the Equal Employment Opportunity Commission, the California Department of Fair Employment and Housing, or any other entity charged with the investigation or adjudication of allegations covered by this subsection within 30 days of such filing, provided that within such 30 days such entity has not notified Contractor that such charges are dismissed or otherwise unfounded. Such notification shall include a general description of the circumstances involved and a general description of the kind of discrimination alleged (for example, gender-, sexual orientation-, religion-, or race-based discrimination).

Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Contractor to penalties, to be determined by the County Manager, including but not limited to:

- i) Termination of this Agreement;
- ii) Disqualification of the Contractor from bidding on or being awarded a County contract for a period of up to 3 years;
- iii) Liquidated damages of \$2,500 per violation; **and/or**
- iv) Imposition of other appropriate contractual and civil remedies and sanctions, as determined by the County Manager.

To effectuate the provisions of this paragraph, the County Manager shall have the authority to:

- i) Examine Contractor's employment records with respect to compliance with this paragraph;
- ii) **Offset** all or any portion of the amount described in this paragraph against amounts due to Contractor under the Contract or any other Contract between Contractor and County.

Contractor shall report to the County Manager the filing by any person in any court of any complaint of discrimination or the filing by any person of any and all charges with the Equal Employment Opportunity Commission, the Fair Employment and Housing Commission or any other entity charged with the investigation of allegations within 30 days of such filing, provided that within such 30 days such entity has not notified Contractor that such charges are dismissed or otherwise unfounded. Such notification shall include the name of the complainant, a copy of such complaint and a description of the circumstance. Contractor shall provide County with a copy of its response to the Complaint when filed.

Compliance with Equal Benefits Ordinance. With respect to the provisions of employee benefits, Contractor shall comply with the County Ordinance which prohibits contractors from discriminating in the provision of employee benefits between an employee with a domestic partner and an employee with a spouse.

XII. Compliance with County Employee Jury Service Ordinance: Contractor shall comply with Chapter 2.85 of the County's Ordinance Code, which states that Contractor shall have and adhere to a written policy providing that its employees, to the extent they are full-time employees and live in San Mateo County, shall receive from the Contractor, on an annual basis, no fewer than five days of regular pay for jury service in San Mateo County, with jury pay being provided only for each day of actual jury service. The policy may provide that such employees deposit any fees received for such jury service with Contractor or that the Contractor may deduct

from an employee's regular pay the fees received for jury service in San Mateo County. By signing this Agreement, Contractor certifies that it has and adheres to a policy consistent with Chapter 2.85. For purposes of this Section, if Contractor has no employees in San Mateo County, it is sufficient for Contractor to provide the following written statement to County: "For purposes of San Mateo County's jury service ordinance, Contractor certifies that it has no full-time employees who live in San Mateo County. To the extent that it hires any such employees during the term of its Agreement with San Mateo County, Contractor shall adopt a policy that complies with Chapter 2.85 of the County's Ordinance Code." The requirements of Chapter 2.85 do not apply if this Agreement's total value listed in the Section 16 is less than one-hundred thousand dollars (\$100,000), but Contractor acknowledges that Chapter 2.85's requirements will apply if this Agreement is amended such that its total value meets or exceeds that threshold amount.

XIII. Termination of Agreement: The Contract may be terminated by the County in the event the Contractor should be adjudged bankrupt, or if he should make a general assignment for the benefit of his creditors, or if a receiver should be appointed on account of his insolvency, or if he or any of his subcontractors should violate any of the provisions of the Contract, or if he should persistently or repeatedly refuse, or should fail, except in cases where extension of time is provided, to furnish enough properly skilled workmen or proper materials, or if he should fail to make prompt payment to subcontractors, or for materials or labor, or persistently disregard laws, ordinances, or the instructions of the Engineer. In the event of any of the foregoing conditions, the Engineer is authorized and directed to serve written notice upon the Contractor and his Surety of its intention to terminate the Contract, such notice to contain the reasons for action and unless within **TWO (2) CALENDAR DAYS** after serving of such notice such conditions shall be remedied and satisfactory arrangements for continuation be made, the Contract shall, upon expiration of **TWO (2) CALENDAR DAYS**, cease and terminate. In the event of any such termination, the Engineer may take over the work and prosecute the same to completion by Contract or by any other method he may deem advisable, and at the expense of the Contractor, and the Contractor and his Surety shall be liable to the County for any excess cost occasioned thereby, and in such event, the County may without liability to so doing take possession of and utilize such materials, appliances, plant and other property belonging to the Contractor as may be on the site of the work, and necessary therefore. In such cases, the Contractor shall not be entitled to receive any further payment until the work is completed.

XIV. Compliance with Laws: The Contractor shall comply with all existing and future State and Federal and regulating laws and all ordinances and regulations of the County of San Mateo which in any manner affect those engaged or employed in the work, or the materials used in the work, or which in any way affect the conduct of the work, and of all such orders and decrees of bodies or tribunals having any jurisdiction or authority over the same.

Controlling Law: The validity of this Agreement and of its terms or provisions, as well as the rights and duties of the parties hereunder, the interpretation, and performance of this Agreement shall be governed by the laws of the State of California.

XV. Contract Assignability: Neither party to the Contract shall assign the Contract or sublet it as a whole without written consent of the other, nor shall the Contractor assign any monies due or to become due to him hereunder without the previous written consent of the County. The Contractor shall neither mortgage nor convey title to equipment or material to be used in this work, without the written permission of the County.

XVI. Contract Materials: The County hereby promises and agrees with the said Contractor to employ and does hereby employ the said Contractor to provide the materials, unless otherwise specified, and to do the work according to the terms and conditions herein contained and referred to, for the prices aforesaid and hereby contracts to pay the same at the time, in the manner and upon the conditions above set forth, and the said parties for themselves, their heirs, executors, administrators, successors, and assigns, do hereby agree to the full performance of the covenants herein contained.

XVII. Retention of Records, Right to Monitor and Audit:

- A.** CONTRACTOR shall maintain all required records for three (3) years after the COUNTY makes final payment and all other pending matters are closed, and shall be subject to the examination and/or audit of the County, a Federal grantor agency, and the State of California.
- B.** Reporting and Record Keeping: CONTRACTOR shall comply with all program and fiscal reporting requirements set forth by appropriate Federal, State and local agencies and as required by the COUNTY.
- C.** CONTRACTOR agrees **upon reasonable notice** to provide to COUNTY, to any Federal or State department having monitoring or review authority, to COUNTY's authorized representatives, and/or their appropriate audit agencies upon reasonable

notice, access to and the right to examine all records and documents necessary to determine compliance with relevant Federal, State, and local statutes, rules and regulations, and this Agreement, and to evaluate the quality, appropriateness and timeliness of services performed.

XVIII. Notices: Any notice, request, demand or other communication required or permitted hereunder shall be deemed to be properly given when both: (1) transmitted via facsimile to the number listed below or transmitted via email to the email address listed below; and (2) sent to the physical address listed below by either being deposited in the United States mail, postage prepaid, or deposited for overnight delivery, charges prepaid, with an established overnight courier that provides a tracking number showing confirmation of receipt.

In the case of County, to:

James C. Porter, Director of Public Works
County of San Mateo
555 County Center, 5th Floor
Redwood City, CA 94063-1665
Facsimile: 650-361-8220
Email: jporter@smcgov.org

In the case of Contractor, to:

(Contractor Name)
(Contractor Address)
(City, State Zip)

XIX. Contract Amount and Change Orders

A. Contract Amount

The amount payable to Contractor under the terms of this agreement is _____ DOLLARS (\$_____).

B. Change Orders

The Board of Supervisors has authorized the Director of Public Works to execute change orders to modify the scope of work provided under this agreement, and to increase the County's maximum fiscal obligation to correspond to those changes. The Board of Supervisors has directed that in the event of change orders, the County's maximum fiscal obligation shall not exceed _____ DOLLARS (\$_____). Any payments in excess of the amount authorized by the Board of Supervisors will require additional approval of the Board of Supervisors.

XX. Proprietary Rights and Confidentiality: The requirements of this Agreement pertaining to the protection of proprietary rights and confidentiality shall survive termination of this Agreement.

IN WITNESS WHEREOF, the parties to these presents have hereunto set their hands the year and date first above written.

“County”

COUNTY OF SAN MATEO
State of California

BY: _____
**President, Board of Supervisors
County of San Mateo**

ATTEST:

John L. Maltbie, County Manager/
Clerk of the Board of Supervisors

“Contractor”

Name of Contractor

BY: _____
(Authorized Signature and Seal of Bidder)