THE INFORMATION IN THIS BOX IS NOT A PART OF THE CONTRACT AND IS FOR DISTRICT USE ONLY

Contract Number

SAP Number

San Bernardino County Flood Control District

Department Contract Representative	Sameh Basta
Telephone Number	(909) 387-8040
Contractor	Cornerstone CC dba Cornerstone Construction Company
Contractor Representative	Gregory Dahn
Telephone Number	(760) 503-5546
Contract Term	July 1, 2026-December 31, 2030
Original Contract Amount	$10,000,000
Amendment Amount	
Total Contract Amount	$10,000,000
Cost Center	1970002510
Grant Number (if applicable)	n/a

IT IS HEREBY AGREED AS FOLLOWS*:*

WHEREAS, San Bernardino County Flood Control District (District) desires to establish a list of pre-qualified contractors to provide on-call Public Works Maintenance Services; and

WHEREAS, the District issued a "Request for Qualifications (RFQ) PWG126-OPERA-6197 On-call Public Works Maintenance Services" and Contractor submitted a proposal in response to the RFQ; and

WHEREAS, the District finds Contractor qualified to provide on-call public works maintenance services; and

WHEREAS, the District desires that such services be provided by Contractor and Contractor agrees to perform these services as set forth below; and

WHEREAS, Contractor is aware that the District reserves the right to award contracts as well as work with multiple contractors or no particular contractor, as it deems to be in the best interest of the District.

NOW, THEREFORE, the District and Contractor mutually agree to the following terms and conditions:

A. DEFINITIONS

1. Board: The San Bernardino County Flood Control District Board of Supervisors.

2. Contract: The Contract between the District and the Contractor resulting from the award issued pursuant to this RFQ to the successful Contractor.

3. Contractor: Any individual, company, firm, corporation, partnership or other organization to whom a contract award is made by the District.

4. Facilitator: A District Purchasing Department buyer or designated individual tasked with managing the processes of the evaluation panel.

5. Emergency Work: Emergency works refers to services provided under a declared local, state, or federal emergency or urgent need of services for the preservation of life or property.

6. Proposal: The offer to provide specific goods or services at specified prices and/or other conditions specified in the RFQ.

7. Contractor: Any individual, company, firm, corporation, partnership or other organization to whom a contract award is made by the District.

8. Public Works Maintenance Services: Includes: concrete work, debris, erosion, and sediment control services; traffic control and flagging services, crack sealing services, traffic striping, pavement markings removal services, hazardous waste disposal services, heavy equipment rental services, weed abatement, pavement maintenance and repair services, fence installation, material testing services and guardrail repair services.

9. Public Projects under the threshold set forth in Public Contract Code Section 22032(a) (currently, $75,000): Public projects refers to construction, reconstruction, erection, alteration, renovation, improvement, demolition, and repair work involving any publicly owned, leased, or operated facility.

10. Purchasing Agent: The Director of the District Purchasing Department.

11. Routine Maintenance: As defined pursuant to Public Contract Code Section 22002(d), routine maintenance refers to and includes, but is not limited to, routine, recurring, and usual work aimed at preserving, protecting, and keeping any publicly owned or publicly operated facility in a safe and continually usable condition for its intended purposes, minor repainting, resurfacing of streets or highways at less than one inch, and landscape maintenance.

12. Request for Qualifications (RFQ): The request for qualifications issued to contractors interested in providing the identified services sought to be procured by the District. The RFQ specifies the evaluation factors to be used and contains or incorporates by reference contractual terms and conditions applicable to the procurement.

13. Services: The services requested described in the RFQ.

14. Subcontractor: An individual, company, firm, corporation, partnership or other organization, not in the employment of or owned by Contractor who is performing services on behalf of Contractor under the Contract or under a separate contract with or on behalf of Contractor.

B. CONTRACTOR RESPONSIBILITIES

The Contractor shall have the following responsibilities:

1. Adhering to all requirements of this Contract, the RFQ from which this Contract resulted, and the Request for Bid (RFB). All of the terms and conditions of the RFQ and the RFB are hereby incorporated into this Contract by this reference.

2. Maintaining a current telephone number and email address with the District. **Failure to do so may result in the loss of bid opportunities on jobs**.

3. Providing the District with a name and telephone number of a single point of contact for questions regarding materials or services. Contractor must supply the District with an emergency 24-hour contact and telephone number.

4. Notifying the District in writing, of any change in mailing address within ten (10) business days of the change.

5. Providing the District with the names, titles and signatures of all employees authorized to sign RFB. Only bids signed by authorized individual will be considered valid bids

6. Responding to the bid, whether providing prices or declining, within the required time frame specified in the RFB, upon receipt of faxed or e-mailed RFB form from the District. **Failure to respond in the required time frame is considered a "Non-Responsive" bid.**

7. Providing the bid in the format specified in the RFB and with the signature of an authorized signer (referred to in this Section). The bid price must include all labor, equipment, materials and supplies, licenses and permits required to perform Contractor obligations under an accepted job assignment. Taxes shall be excluded from Contractor's bid price.

8. Warrant all services provided for one (1) year.

9. Providing the District with the following completed signed items:

    - Public Works Maintenance Services Schedules (Exhibits B-1 and B-2)
    - Current Insurance Certification (as per Section G)

10. Bids must include a fully executed non-collusion declaration in the form identified in Public Contracts Code Section 7106.

11. The Contractor agrees to comply with any and all applicable laws and regulations, including, but not limited to, the Public Contract Code provisions identified in Attachment B, if applicable.

12. Contractor reserves the right to cancel this Contract, for any reason, with a sixty (60) calendar days' written notice of cancellation.

13. Public Works Maintenance Services and areas governed by and for this term of this Contract are defined in Exhibit C Scope of Work.

C. GENERAL CONTRACT REQUIREMENTS

C.1 Recitals

The recitals set forth above are true and correct and incorporated herein by this reference.

C.2 Contract Amendments

Contractor agrees any alterations, variations, modifications, or waivers of the provisions of the Contract, shall be valid only when reduced to writing, executed and attached to the original Contract and approved by the person(s) authorized to do so on behalf of Contractor and District.

C.3 Contract Assignability

Without the prior written consent of the District, the Contract is not assignable by Contractor either in whole or in part.

C.4 Contract Exclusivity

This is not an exclusive Contract. The District reserves the right to enter into a contract with other contractors for the same or similar services. The District does not guarantee or represent that the

Contractor will be permitted to perform any minimum amount of work, or receive compensation other than on a per order basis, under the terms of this Contract.

C.5 Attorney's Fees and Costs

If any legal action is instituted to enforce any party's rights hereunder, each party shall bear its own costs and attorney's fees, regardless of who is the prevailing party. This paragraph shall not apply to those costs and attorney's fees directly arising from a third-party legal action against a party hereto and payable under Indemnification and Insurance Requirements.

C.6 Background Checks for Contractor Personnel

Contractor shall ensure that its personnel (a) are authorized to work in the jurisdiction in which they are assigned to perform Services; (b) do not use legal or illegal substances in any manner which will impact their ability to provide Services to the District; and (c) are not otherwise disqualified from performing the Services under applicable law. If requested by the District and not in violation of applicable law, Contractor shall conduct a background check, at Contractor's sole expense, on all its personnel providing Services. If requested by the District, Contractor shall provide the results of the background check of each individual to the District. Such background check shall be in the form generally used by Contractor in its initial hiring of employees or contracting for contractors or, as applicable, during the employment-screening process but must, at a minimum, have been performed within the preceding 12-month period. Contractor personnel who do not meet the District's hiring criteria, in District's sole discretion, shall not be assigned to work on District property or Services, and District shall have the right, at its sole option, to refuse access to any Contract personnel to any District facility.

C.7 Change of Address

Contractor shall notify the District in writing, of any change in mailing address within ten (10) business days of the change.

C.8 Choice of Law

This Contract shall be governed by and construed according to the laws of the State of California.

C. 9 Compliance with District Policy

In performing the Services and while at any District facilities, Contractor personnel (including subcontractors) shall (a) conduct themselves in a businesslike manner; (b) comply with the policies, procedures, and rules of the District regarding health and safety, and personal, professional and ethical conduct; (c) comply with the finance, accounting, banking, Internet, security, and/or other applicable standards, policies, practices, processes, procedures, and controls of the District; and (d) abide by all laws applicable to the District facilities and the provision of the Services, and all amendments and modifications to each of the documents listed in subsections (b), (c), and (d) (collectively, "District Policies"). District Policies, and additions or modifications thereto, may be communicated orally or in writing to Contractor or Contractor personnel or may be made available to Contractor or Contractor personnel by conspicuous posting at a District facility, electronic posting, or other means generally used by District to disseminate such information to its employees or contractors. Contractor shall be responsible for the promulgation and distribution of District Policies to Contractor personnel to the extent necessary and appropriate.

District shall have the right to require Contractor's employees, agents, representatives and subcontractors to exhibit identification credentials issued by District in order to exercise any right of access under this Contract.

C.10 Reserved

C.11 Primary Point of Contact

Contractor will designate an individual to serve as the primary point of contact for the Contract. Contractor or designee must respond to District inquiries within two (2) business days. Contractor

shall not change the primary contact without written acknowledgement to the District. Contractor will also designate a back-up point of contact in the event the primary contact is not available.

C.12 District Representative

The *Chief Flood Control Engineer of San Bernardino County Flood Control District* or his/her designee shall represent the District in all matters pertaining to the services to be rendered under this Contract, including termination and assignment of this Contract, and shall be the final authority in all matters pertaining to the Services/Scope of Work by Contractor. If this contract was initially approved by the San Bernardino County Flood Control District Board of Supervisors, then the Board of Supervisors must approve all amendments to this Contract, unless otherwise delegated.

C.13 Damage to District Property

Contractor shall repair, or cause to be repaired, at its own cost, all damages to District vehicles, facilities, buildings or grounds caused by the willful or negligent acts of Contractor or its employees or agents. Such repairs shall be made immediately after Contractor becomes aware of such damage, but in no event later than thirty (30) days after the occurrence.

If the Contractor fails to make timely repairs, the District may make any necessary repairs. The Contractor, as determined by the District, shall repay all costs incurred by the District for such repairs, by cash payment upon demand, or District may deduct such costs from any amounts due to the Contractor from the District, as determined at the District's sole discretion.

C. 14 Debarment and Suspension

Contractor certifies that neither it nor its principals or subcontractors is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. (See the following United States General Services Administration's System for Award Management website https://www.sam.gov). Contractor further certifies that if it or any of its subcontractors are business entities that must be registered with the California Secretary of State, they are registered and in good standing with the Secretary of State.

C.15 Drug and Alcohol Free Workplace

In recognition of individual rights to work in a safe, healthful and productive workplace, as a material condition of this Contract, the Contractor agrees that the Contractor and the Contractor's employees, while performing service for the District, on District property, or while using District equipment:

C.15.1 Shall not be in any way impaired because of being under the influence of alcohol or an illegal or controlled substance.

C.15.2 Shall not possess an open container of alcohol or consume alcohol or possess or be under the influence of an illegal or controlled substance.

C.15.3 Shall not sell, offer, or provide alcohol or an illegal or controlled substance to another person, except where Contractor or Contractor's employee who, as part of the performance of normal job duties and responsibilities, prescribes or administers medically prescribed drugs.

The Contractor shall inform all employees that are performing service for the District on District property, or using District equipment, of the District's objective of a safe, healthful and productive work place and the prohibition of drug or alcohol use or impairment from same while performing such service for the District.

The District may terminate for default or breach of this Contract and any other Contract the Contractor has with the District, if the Contractor or Contractor's employees are determined by the District not to be in compliance with above.

C.16 Duration of Terms

This Contract, and all of its terms and conditions, shall be binding upon and shall inure to the benefit of the heirs, executors, administrators, successors, and assigns of the respective parties, provided no such assignment is in violation of the provisions of this Contract.

C.17 Employment Discrimination

During the term of the Contract, Contractor shall not discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, sexual orientation, age, or military and veteran status. Contractor shall comply with Executive Orders 11246, 11375, 11625, 12138, 12432, 12250, 13672, Title VI and Title VII of the Civil Rights Act of 1964, the California Fair Employment and Housing Act and other applicable Federal, State and District laws and regulations and policies relating to equal employment and contracting opportunities, including laws and regulations hereafter enacted.

C.18 Environmental Requirements

In accordance with District Policy 11-08, the District prefers to acquire and use products with higher levels of post-consumer recycled content. Environmentally preferable goods and materials must perform satisfactorily and be available at a reasonable price. The District requires Contractor to use recycled paper for any printed or photocopied material created as a result of this Contract. Contractor is also required to use both sides of paper sheets for reports submitted to the District whenever practicable.

To assist the District in meeting the reporting requirements of the California Integrated Waste Management Act of 1989 (AB 939), Contractor must be able to annually report the District's environmentally preferable purchases. Contractor must also be able to report on environmentally preferable goods and materials used in the provision of their service to the District, utilizing a District approved form.

C.19 Improper Influence

Contractor shall make all reasonable efforts to ensure that no District officer or employee, whose position in the District enables him/her to influence any award of the Contract or any competing offer, shall have any direct or indirect financial interest resulting from the award of the Contract or shall have any relationship to the Contractor or officer or employee of the Contractor.

C.20 Improper Consideration

Contractor shall not offer (either directly or through an intermediary) any improper consideration such as, but not limited to cash, discounts, service, the provision of travel or entertainment, or any items of value to any officer, employee or agent of the District in an attempt to secure favorable treatment regarding this Contract.

The District, by written notice, may immediately terminate this Contract if it determines that any improper consideration as described in the preceding paragraph was offered to any officer, employee or agent of the District with respect to the proposal and award process. This prohibition shall apply to any amendment, extension or evaluation process once a contract has been awarded.

Contractor shall immediately report any attempt by a District officer, employee or agent to solicit (either directly or through an intermediary) improper consideration from Contractor. The report shall be made to the supervisor or manager charged with supervision of the employee or the

District Administrative Office. In the event of a termination under this provision, the District is entitled to pursue any available legal remedies.

C.21 Informal Dispute Resolution

In the event the District determines that service is unsatisfactory, or in the event of any other dispute, claim, question or disagreement arising from or relating to this Contract or breach thereof, the parties hereto shall use their best efforts to settle the dispute, claim, question or disagreement. To this effect, they shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties.

C.22 Legality and Severability

The parties' actions under the Contract shall comply with all applicable laws, rules, regulations, court orders and governmental agency orders. The provisions of this Contract are specifically made severable. If a provision of the Contract is terminated or held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall remain in full effect.

C.23 Licenses, Permits and/or Certifications

Contractor shall ensure that it has all necessary licenses, permits and/or certifications required by the laws of Federal, State, District, and municipal laws, ordinances, rules and regulations. The Contractor shall maintain these licenses, permits and/or certifications in effect for the duration of this Contract. Contractor will notify District immediately of loss or suspension of any such licenses, permits and/or certifications. Failure to maintain a required license, permit and/or certification may result in immediate termination of this Contract.

C.24 Material Misstatement/Misrepresentation

If during the course of the administration of this Contract, the District determines that Contractor has made a material misstatement or misrepresentation or that materially inaccurate information has been provided to the District, this Contract may be immediately terminated. If this Contract is terminated according to this provision, the District is entitled to pursue any available legal remedies.

C.25 Mutual Covenants

The parties to this Contract mutually covenant to perform all of their obligations hereunder, to exercise all discretion and rights granted hereunder, and to give all consents in a reasonable manner consistent with the standards of "good faith" and "fair dealing".

C.26 Nondisclosure

Contractor shall hold as confidential and use reasonable care to prevent unauthorized access by, storage, disclosure, publication, dissemination to and/or use by third parties of, confidential information that is either: (1) provided by the District to Contractor or an agent of Contractor or otherwise made available to Contractor or Contractor's agent in connection with this Contract; or, (2) acquired, obtained, or learned by Contractor or an agent of Contractor in the performance of this Contract. For purposes of this provision, confidential information means any data, files, software, information or materials in oral, electronic, tangible or intangible form and however stored, compiled or memorialize and includes, but is not limited to, technology infrastructure, architecture, financial data, trade secrets, equipment specifications, user lists, passwords, research data, and technology data.

C.27 Notice of Delays

Except as otherwise provided herein, when either party has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this contract, that party shall, within twenty-four (24) hours, give notice thereof, including all relevant information with respect thereto, to the other party.

C.28 Ownership of Documents

All documents, data, products, graphics, computer programs and reports prepared by Contractor pursuant to the Contract shall be considered property of the District upon payment for services (and products, if applicable). All such items shall be delivered to District at the completion of work under the Contract, subject to the requirements of Section IV–Term of the Contract. Unless otherwise directed by District, Contractor may retain copies of such items.

C.29 Participation Clause

The District desires that Municipalities, School Districts, and other Tax Districts within the San Bernardino County Flood Control District requiring the same services provided herein may at their option and through the District Purchasing agent, avail themselves of this Contract. Upon notice, in writing, the Contractor agrees to the extension of the terms of a resultant contract with such governmental bodies as though they have been expressly identified in this bid, with the provisions that:

C.29.1 Such governmental body does not have and will not have in force any other contract for like purchases.

C.29.2 Such governmental body does not have under consideration for award any other bids or quotations for like purchases.

Such governmental body shall make purchases directly through and to the Contractor. The District will not be liable for any such purchase made between the Contractor and another governmental body who avails themselves of this contract.

C.30 Air, Water Pollution Control, Safety and Health

Contractor shall comply with all air pollution control, water pollution, safety and health ordinances and statutes, which apply to the work performed pursuant to this Contract.

C.31 Records

Contractor shall maintain all records and books pertaining to the delivery of services under this Contract and demonstrate accountability for contract performance. All records shall be complete and current and comply with all Contract requirements. Failure to maintain acceptable records shall be considered grounds for withholding of payments for invoices submitted and/or termination of the Contract.

All records relating to the Contractor's personnel, consultants, subcontractors, Services/Scope of Work and expenses pertaining to this Contract shall be kept in a generally acceptable accounting format. Records should include primary source documents. Fiscal records shall be kept in accordance with Generally Accepted Accounting Principles and must account for all funds, tangible assets, revenue and expenditures. Fiscal records must comply with the appropriate Office of Management and Budget (OMB) Circulars, which state the administrative requirements, cost principles and other standards for accountancy.

C.32 Relationship of the Parties

Nothing contained in this Contract shall be construed as creating a joint venture, partnership, or employment arrangement between the Parties hereto, nor shall either Party have the right, power or authority to create an obligation or duty, expressed or implied, on behalf of the other Party hereto.

C.33 Release of Information

No news releases, advertisements, public announcements or photographs arising out of the Contract or Contractor's relationship with District may be made or used without prior written approval of the District.

C.34 Representation of the District

In the performance of this Contract, Contractor, its agents and employees, shall act in an independent capacity and not as officers, employees, or agents of the San Bernardino County Flood Control District.

C.35 Strict Performance

Failure by a party to insist upon the strict performance of any of the provisions of this Contract by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this Contract thereafter.

C.36 Subcontracting

Contractor shall obtain District's written consent, which District may withhold in its sole discretion, before entering into Contracts with or otherwise engaging any subcontractors who may supply any part of the Services to District. At District's request, Contractor shall provide information regarding the subcontractor's qualifications and a listing of a subcontractor's key personnel including, if requested by the District, resumes of proposed subcontractor personnel. Contractor shall remain directly responsible to District for its subcontractors and shall indemnify District for the actions or omissions of its subcontractors under the terms and conditions specified in Section G. All approved subcontractors shall be subject to the provisions of this Contract applicable to Contractor Personnel.

For any subcontractor, Contractor shall:

36.1 Be responsible for subcontractor compliance with the Contract and the subcontract terms and conditions; and

36.2 Ensure that the subcontractor follows District's reporting formats and procedures as specified by District.

36.3 Include in the subcontractor's subcontract substantially similar terms as are provided in Sections B. Contractor Responsibilities and C. General Contract Requirements.

Upon expiration or termination of this Contract for any reason, District will have the right to enter into direct Contracts with any of the Subcontractors. Contractor agrees that its arrangements with Subcontractors will not prohibit or restrict such Subcontractors from entering into direct Contracts with District.

C. 37 Subpoena

In the event that a subpoena or other legal process commenced by a third party in any way concerning the Goods or Services provided under this Contract is served upon Contractor or District, such party agrees to notify the other party in the most expeditious fashion possible following receipt of such subpoena or other legal process. Contractor and District further agree to cooperate with the other party in any lawful effort by such other party to contest the legal validity of such subpoena or other legal process commenced by a third party as may be reasonably required and at the expense of the party to whom the legal process is directed, except as otherwise provided herein in connection with defense obligations by Contractor for District.

C.38 Termination for Convenience

The District reserves the right to terminate the Contract, for its convenience, with or without cause, with a thirty (30) day written notice of termination. Such termination may include all or part of the services described herein. Upon such termination, payment will be made to the Contractor for services rendered and expenses reasonably incurred prior to the effective date of termination. Upon receipt of termination notice Contractor shall promptly discontinue services unless the notice directs otherwise. Contractor shall deliver promptly to District and transfer title (if necessary) all completed work, and work in progress, including drafts, documents, plans, forms, data, products, graphics, computer programs and reports.

C.39 Time of the Essence

Time is of the essence in performance of this Contract and of each of its provisions.

C.40 Venue

The parties acknowledge and agree that this Contract was entered into and intended to be performed in San Bernardino County Flood Control District, California. The parties agree that the venue of any action or claim brought by any party to this Contract will be the Superior Court of California, San Bernardino County, San Bernardino District. Each party hereby waives any law or rule of the court, which would allow them to request or demand a change of venue. If any action or claim concerning this Contract is brought by any third party and filed in another venue, the parties hereto agree to use their best efforts to obtain a change of venue to the Superior Court of California, San Bernardino County, San Bernardino District.

C.41 Conflict of Interest

Contractor shall make all reasonable efforts to ensure that no conflict of interest exists between its officers, employees, or subcontractors and the District. Contractor shall make a reasonable effort to prevent employees, Contractor, or members of governing bodies from using their positions for purposes that are, or give the appearance of being motivated by a desire for private gain for themselves or others such as those with whom they have family business, or other ties. Officers, employees, and agents of cities, counties, districts, and other local agencies are subject to applicable conflict of interest codes and state law. In the event the District determines a conflict of interest situation exists, any increase in costs, associated with the conflict of interest situation, may be disallowed by the District and such conflict may constitute grounds for termination of the Contract. This provision shall not be construed to prohibit employment of persons with whom Contractor's officers, employees, or agents have family, business, or other ties so long as the employment of such persons does not result in increased costs over those associated with the employment of any other equally qualified applicant.

C.42 Former District Administrative Officials

Contractor agrees to provide, or has already provided information on former San Bernardino County Flood Control District administrative officials (as defined below) who are employed by or represent Contractor. The information provided includes a list of former District administrative officials who terminated District employment within the last five years and who are now officers, principals, partners, associates or members of the business. The information also includes the employment with or representation of Contractor. For purposes of this provision, "District administrative official" is defined as a member of the Board of Supervisors or such officer's staff, District Executive Officer or member of such officer's staff, District department or group head, assistant department or group head, or any employee in the Exempt Group, Management Unit or Safety Management Unit.

C.43 Disclosure of Criminal and Civil Procedures

The District reserves the right to request the information described herein from the Contractor. Failure to provide the information may result in a termination of the Contract. The District also reserves the right to obtain the requested information by way of a background check performed by an investigative firm. The Contractor also may be requested to provide information to clarify initial responses. Negative information discovered may result in Contract termination.

Contractor is required to disclose whether the firm, or any of its partners, principals, members, associates or key employees (as that term is defined herein), within the last ten years, has been indicted on or had charges brought against it or them (if still pending) or convicted of any crime or offense arising directly or indirectly from the conduct of the firm's business, or whether the firm, or any of its partners, principals, members, associates or key employees, has within the last ten years, been indicted on or had charges brought against it or them (if still pending) or convicted of any crime or offense involving financial misconduct or fraud. If the response is affirmative, the

Contractor will be asked to describe any such indictments or charges (and the status thereof), convictions and the surrounding circumstances in detail.

In addition, the Contractor is required to disclose whether the firm, or any of its partners, principals, members, associates or key employees, within the last ten years, has been the subject of legal proceedings as defined herein arising directly from the provision of services by the firm or those individuals. "Legal proceedings" means any civil actions filed in a court of competent jurisdiction, or any matters filed by an administrative or regulatory body with jurisdiction over the firm or the individuals. If the response is affirmative, the Contractor will be asked to describe any such legal proceedings (and the status and disposition thereof) and the surrounding circumstances in detail.

For purposes of this provision "key employees" includes any individuals providing direct service to the District. "Key employees" do not include clerical personnel providing service at the firm's offices or locations.

C.44 Copyright

District shall have a royalty-free, non-exclusive and irrevocable license to publish, disclose, copy, translate, and otherwise use, copyright or patent, now and hereafter, all reports, studies, information, data, statistics, forms, designs, plans, procedures, systems, and any other materials or properties developed under this Contract including those covered by copyright, and reserves the right to authorize others to use or reproduce such material. All such materials developed under the terms of this Contract shall acknowledge the San Bernardino County Flood Control District as the funding agency and Contractor as the creator of the publication. No such materials, or properties produced in whole or in part under this Contract shall be subject to private use, copyright or patent right by Contractor in the United States or in any other country without the express written consent of District. Copies of all educational and training materials, curricula, audio/visual aids, printer material, and periodicals, assembled pursuant to this Contract must be filed with the District prior to publication.

C.45 Artwork, Proofs and Negatives

All artwork, proofs, and/or negatives in either print or digital format for anything produced under the terms of this Contract are the property of the District. These items must be returned to the District within ten (10) days, upon written notification to the Contractor. In the event of a failure to return the documents, the District is entitled to pursue any available legal remedies. In addition, the Contractor will be barred from all future solicitations, for a period of at least six (6) months.

C.46 Iran Contracting Act

IRAN CONTRACTING ACT OF 2010, Public Contract Code sections 2200 et seq. (Applicable for all Contracts of one million dollars ($1,000,000) or more). In accordance with Public Contract Code section 2204(a), the Contractor certifies that at the time the Contract is signed, the Contractor signing the Contract is not identified on a list created pursuant to subdivision (b) of Public Contract Code section 2203 as a person (as defined in Public Contract Code section 2202(e)) engaging in investment activities in Iran described in subdivision (a) of Public Contract Code section 2202.5, or as a person described in subdivision (b) of Public Contract Code section 2202.5, as applicable.

Contractors are cautioned that making a false certification may subject the Contractor to civil penalties, termination of existing contract, and ineligibility to bid on a contract for a period of three (3) years in accordance with Public Contract Code section 2205.

C.47 Prevailing Wage Laws

By its execution of this Contract, Contractor certifies that it is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq. as well as California Code of Regulations, Title 8, Section 16000 et seq. ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects. Section 1720 of the California Labor Code states in part: "For purposes

of this paragraph, 'construction' includes work performed during the design, site assessment, feasibility study, and other preconstruction phases of construction including, but not limited to, inspection and land surveying work…" If the Services/Scope of Work are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is $1,000 or more, Contractor agrees to fully comply with such Prevailing Wage Laws. Contractor shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at the Contractor's principal place of business and at the project site. Contractor will also adhere to any other applicable requirements, including but not limited to, those regarding the employment of apprentices, travel and subsistence pay, retention and inspection of payroll records, workers compensation and forfeiture of penalties prescribed in the Labor Code for violations. Contractor shall defend, indemnify and hold the District, its elected officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with Prevailing Wage Laws. See Attachment A, which is attached and incorporated by reference, for additional information regarding Prevailing Wage Laws. Contractor shall comply with all applicable terms and conditions in Attachment A. The applicable general prevailing wage determinations are on file with the District and are available to any interested party on request. Contractor shall post a copy of the applicable prevailing wage determinations at the job site.

C.48 California Consumer Privacy Act

To the extent applicable, if Contractor is a business that collects the personal information of a consumer(s) in performing Services pursuant to this Contract, Contractor must comply with the provisions of the California Consumer Privacy Act (CCPA). (Cal. Civil Code §§1798.100, et seq.). For purposes of this provision, "business," "consumer," and "personal information" shall have the same meanings as set forth at Civil Code section 1798.140. Contractor must contact the District immediately upon receipt of any request by a consumer submitted pursuant to the CCPA that requires any action on the part of the District, including but not limited to, providing a list of disclosures or deleting personal information. Contractor must not sell, market or otherwise disclose personal information of a consumer provided by the District unless specifically authorized pursuant to terms of this Contract. Contractor must immediately provide to the District any notice provided by a consumer to Contractor pursuant to Civil Code section 1798.150(b) alleging a violation of the CCPA, that involves personal information received or maintained pursuant to this Contract. Contractor must immediately notify the District if it receives a notice of violation from the California Attorney General pursuant to Civil Code section 1798.155(b).

C. 49 Executive Order N-6-22 Russia Sanctions

On March 4, 2022, Governor Gavin Newsom issued Executive Order N-6-22 (the EO) regarding Economic Sanctions against Russia and Russian entities and individuals. "Economic Sanctions" refers to sanctions imposed by the U.S. government in response to Russia's actions in Ukraine (https://home.treasury.gov/policy-issues/financial-sanctions/sanctions-programs-and-country-information/ukraine-russia-related-sanctions), as well as any sanctions imposed under state law (https://www.dgs.ca.gov/OLS/Ukraine-Russia). The EO directs state agencies and their contractors (including by agreement or receipt of a grant) to terminate contracts with, and to refrain from entering any new contracts with, individuals or entities that are determined to be a target of Economic Sanctions. Accordingly, should it be determined that Contractor is a target of Economic Sanctions or is conducting prohibited transactions with sanctioned individuals or entities, that shall be grounds for termination of this agreement. Contractor shall be provided advance written notice of such termination, allowing Contractor at least 30 calendar days to provide a written response. Termination shall be at the sole discretion of the District.

C.50 Reserved

C.51 Reserved

C.52 Payment Bond

Contractor will furnish a Payment Bond in an amount equal to one hundred percent (100%) of the Contract Sum. The Bond must comply with all requirements in the Contract and California Civil Code section 9554, be on a District approved bond form (see Attachment E for sample bond form), and be secured from a surety company satisfactory to the District within ten (10) calendar days of the award of the Contract. The Bond shall remain in full force and effect for a period of one (1) year following the date of filing of the Notice of Completion.

C.53 Prohibition on Contracting with Entities that Require Certain Internal Confidentiality Agreements or Statements-Representation (FAR 52.203-18).

In compliance with Federal Acquisition Regulation 52.203-18, Contractor shall not require employees or subcontractors of Contractor seeking to report waste, fraud, or abuse, to sign internal confidentiality agreements or statement prohibiting or otherwise restricting such employees or subcontractors from lawfully reporting such waste, fraud or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information. To the extent Contractor has required employees or subcontractors to sign internal confidentiality agreements or statements in the past, Contractor shall notify current employees and subcontractors that those prohibitions and restrictions are no longer in effect. Contractor shall include this clause in all subcontracts.

C.54 Use of Biobased Products (FAR 52.223-1)

Contractor certifies that to the extent biobased products are purchased using Contract funds, Contractor shall comply with Federal Acquisition Regulation 52.223-1.

C.55 Service Contract Labor Standards (FAR 52.222-52, 52.222-53, 22.1003-4)

To the extent applicable, Contractor agrees to comply with and to provide any information necessary for the District to comply with Federal Acquisition Regulations 52.222-52, 52.222-53, and 22.1003-4.

C.56 Reserved

D. TERM OF CONTRACT

This Contract is effective July 1, 2026 and expires December 31, 2030 but may be terminated earlier in accordance with provisions of this Contract.

E. DISTRICT RESPONSIBILITIES

E.1 District, through its Chief Flood Control Engineer of San Bernardino County Flood Control District (hereinafter "Chief Flood Control Engineer"), or the Chief Flood Control Engineer's designee, is responsible for providing the Contractor with a central point of contact to facilitate the terms of the Contract. At the time of Contract commencement, the central point of contact is:

San Bernardino County Flood Control District
Attn: Sameh Basta
825 East Third Street, Room 120
San Bernardino, CA 92415-0835
Email: DPWProcurement@dpw.sbcounty.gov

E.2 The District, through its Chief Flood Control District Engineer, or the Chief Flood Control District Engineer's designees, reserves the right to:

1. Accept or reject any or all bids if the District determines it is in its own best interest to do so. The District will notify all contractors, in writing, if all bids are rejected.

2. Take conditions other than price into account when necessary. The District reserves the option to make award(s) as it deems to be in the best interest of the District.

3. Select the next lowest bidder until the District's requirements are met if the preceding Contractor is unable to provide the services as needed.

4. Postpone jobs if in the best interest of the District.

5. Reject services that do not meet job specifications.

6. Cancel award of bid, prior to performance of service, if District requirements change.

7. To reject equipment not meeting specifications requested on the RFB. It is the contractor's responsibility to contact the District prior to submitting a bid to verify the requirements and determine if equipment is equivalent to the requested item. Equipment that arrives on the job not meeting specifications will be rejected at the Contractor's expense.

8. To invoice Contractor for all costs incurred by the District, including assessed fines and or penalties, for Contractor's incorrect, late, or non-performance of obligations under an accepted job assignment. These costs may be offset from any amounts due the Contractor under this Agreement or otherwise.

9. Negotiate or solicit competitive proposal from any company on new technology, products and services as they become available and of application or economic benefits as determined by the District.

10. Immediately dismiss a Contractor from a job if work is found to be deficient in any manner or exercise any rights described in this Contract.

11. Dismiss a Contractor from the remaining work on a project in the event the Contractor does not perform services in a satisfactory manner or perform in a timely manner.

12. Accept bids any time during this Contract from Contractors currently under contract and not currently under contract.

13. Issue Addenda or Amendments to this Contract.

14. To invoice Contractor for all costs incurred by the District, or collect against the bond of surety, for Contractor's incorrect, late, or non-performance of obligations under an accepted job assignment. These costs may also be offset from any amounts due the Contractor under this Contract or otherwise.

15. Invoice Contractor for all costs incurred by District, including assessed fines and or penalties, for Contractor's incorrect, late, or non-performance of obligations under an accepted job assignment. These costs may be offset from any amounts due the Contractor under this Contract or otherwise.

16. Assess liquidated damages in the amount of $500.00 against Contractor for each and every calendar days delay in finishing the work in excess of the number of working days prescribed in the Request for Bid.

17. Hold in retention up to 5% of the total value of work performed and any other amount authorized in Public Contract Code section 7201.

    i. The retention will be held for 30 days following completion of the project. Contractor shall invoice for release of the retained amount.

    ii. District shall not retain any monies due the Contractor if unconditional releases and waivers from all subcontractors and a certification from the Contractor stating that said

subcontractors are the only subcontractors performing work on the project are submitted upon invoice.

iii. The actual required retention amount shall be established at the time of Bid.

iv. Contractor may avail himself/herself to Public Contract Code section 22300 which allows substitute securities to be deposited in lieu of retention payments withheld to insure performance.

v. Require Contractor on all projects over $25,000, to file a payment bond with and approved by the District Chief Flood Control District Engineer or the Chief Flood Control District Engineer s designee, in accordance with Civil Code section 9550, in a penal sum equal to one hundred percent (100%) of the contract price.

18. Require Contractor to file a performance bond as directed by the Chief Flood Control District Engineer, or the Chief Flood Control District Engineer's designee, in a Request for Bid in a penal sum equal to one hundred percent (100%) of the contract price.

19. Depending on the funding source for the work, require Contractor to comply with any other federal, state, District or municipal law, regulation and/or contractual requirement, including, but not limited to, the laws, regulations and/or requirements of the State Department of Transportation (Caltrans), the Federal Highway Administration (FHWA), the California Governor's Office of Emergency Services (Cal OES) or the Federal Emergency Management Agency (FEMA).

20. The District agrees to comply with any and all applicable laws and regulations, including, but not limited to, the Public Contract Code provisions identified in Attachment B, if applicable.

F. FISCAL PROVISIONS

F.1 The maximum amount of *payment* under this Contract shall not exceed $10,000,000 and shall be subject to availability of other funds to the District. The consideration to be paid to Contractor, as provided herein, shall be in full payment for all Contractor's services and expenses incurred in the performance hereof, including travel and per diem.

F.2 Contractor shall accept all payments from District via electronic funds transfer (EFT) directly deposited into the Contractor's designated checking or other bank account. Contractor shall promptly comply with directions and accurately complete forms provided by District required to process EFT payments.

F.3 District is exempt from Federal excise taxes and no payment shall be made for any personal property taxes levied on Contractor or on any taxes levied on employee wages. The District shall only pay for any State or local sales or use taxes on the services rendered or equipment and/or parts supplied to the District pursuant to the Contract.

F.4 Costs for services under the terms of this Contract shall be incurred during the contract period except as approved by District. Contractor shall not use current year funds to pay prior or future year obligations.

F.5 Funds made available under this Contract shall not supplant any federal, state or any governmental funds intended for services of the same nature as this Contract. Contractor shall not claim reimbursement or payment from District for, or apply sums received from District with respect to that portion of its obligations that have been paid by another source of revenue. Contractor agrees that it will not use funds received pursuant to this Contract, either directly or indirectly, as a contribution or compensation for purposes of obtaining funds from another revenue source without prior written approval of the District.

F.6 Contractor shall adhere to the District's Travel Management Policy (8-02 and 08-02SP1) when travel is pursuant to this Contract and for which reimbursement is sought from the District. In addition, Contractor is encouraged to utilize local transportation services, including but not limited to, the Ontario International Airport.

F.7 Payment Terms

1. Invoices shall be submitted in the appropriate format to:

Department of Public Works
Attn: Administrative Services
825 East Third Street, Room 207
San Bernardino, CA 92415-0835
Or
Email: DPWBillPay@dpw.sbcounty.gov

2. For settlement, an invoice must include the following information:
   a. The name of Contractor and complete remittance address.
   b. The contract number, purchase order number or bid number.
   c. A unique number identified (invoice number).
   d. An itemized list of services and dates performed.
   e. If required by law, Contractor shall submit certified payroll for employees charged with performing Contractor obligations under an accepted job assignment weekly and upon invoice.
   f. Supporting tickets signed by District staff. Stand by time must be documented on the tickets and original invoice in order to be paid. Contractor shall forfeit payment for stand-by time not recorded on tickets and submitted on invoices prior to District's payment disbursement to Contractor.
3. For work performed and described in Public Contracts Code section 20104.50, standard payment terms shall be 30 days, upon receipt of invoices; otherwise payment terms shall be net 60 business days, upon receipt of invoice, or the resolution of any billing disputes. No late penalties shall be charged or paid on payments that exceed the net 60-day minimum.

4. Contractor shall accept all payments from District via electronic funds transfers (EFT) directly deposited into the Contractor's designated checking or other bank account. Contractor shall promptly comply with directions and accurately complete forms provided by District required to process EFT payments

G. INDEMNIFICATION AND INSURANCE REQUIREMENTS

For the purpose of this Section G, "District" and "San Bernardino County Flood Control District" or "County" and "San Bernardino County" shall be deemed to refer to both the County and the District.

G.1 Indemnification

The Contractor agrees to indemnify, defend (with counsel reasonably approved by District) and hold harmless the District, San Bernardino County, and their authorized officers, employees, agents and volunteers (Indemnitees) from any and all claims, actions, losses, damages and/or liability arising out of this Contract from any cause whatsoever, including the acts, errors or omissions of any person and for any costs or expenses incurred by the Indemnitees on account of any claim except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of Indemnitees. The Contractor indemnification obligation applies to the Indemnitees' "active" as well as "passive" negligence but does not apply to the Indemnitees' "sole negligence" or "willful misconduct" within the meaning of Civil Code section 2782.

G.2 Additional Insured

All policies, except for Worker's Compensation, Errors and Omissions and Professional Liability policies shall contain additional endorsements naming the District and its officers, employees, agents and volunteers as additional named insured with respect to liabilities arising out of the performance of services hereunder. The additional insured endorsements shall not limit the scope of coverage for the District to vicarious liability but shall allow coverage for the District to the full extent provided by the policy. Such additional insured coverage shall be at least as broad as Additional Insured (Form B) endorsement form ISO, CG 2010.11 85.

G.3 Waiver of Subrogation Rights

The Contractor shall require the carriers of required coverages to waive all rights of subrogation against the District, its officers, employees, agents, volunteers, contractors and subcontractors. All general or auto liability insurance coverage provided shall not prohibit the Contractor and Contractor's employees or agents from waiving the right of subrogation prior to a loss or claim. The Contractor hereby waives all rights of subrogation against the District.

G.4 Policies Primary and Non-Contributory

All policies required herein are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the District.

G.5 Severability of Interests

The Contractor agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and there will be no cross liability exclusions that preclude coverage for suits between the Contractor and the District or between the District and any other insured or additional insured under the policy.

G.6 Proof of Coverage

The Contractor shall furnish Certificates of Insurance to the District Department administering the Contract evidencing the insurance coverage at the time the Contract is executed, additional endorsements, as required shall be provided prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the Department, and Contractor shall maintain such insurance from the time Contractor commences performance of services hereunder until the completion of such services. Within fifteen (15) days of the commencement of this contract, the Contractor shall furnish a copy of the Declaration page for all applicable policies and will provide complete certified copies of the policies and endorsements immediately upon request.

G.7 Acceptability of Insurance Carrier

Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum "Best" Insurance Guide rating of "A- VII".

G.8 Deductibles and Self-Insured Retention

Any and all deductibles or self-insured retentions in excess of $10,000 shall be declared to and approved by Risk Management.

G.9 Failure to Procure Coverage

In the event that any policy of insurance required under this contract does not comply with the requirements, is not procured, or is canceled and not replaced, the District has the right but not the obligation or duty to cancel the contract or obtain insurance if it deems necessary and any premiums paid by the District will be promptly reimbursed by the Contractor or District payments to the Contractor will be reduced to pay for District purchased insurance.

G.10 Insurance Review

Insurance requirements are subject to periodic review by the District. The Director of Risk Management or designee is authorized, but not required, to reduce, waive or suspend any

insurance requirements whenever Risk Management determines that any of the required insurance is not available, is unreasonably priced, or is not needed to protect the interests of the District. In addition, if the Department of Risk Management determines that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the Director of Risk Management or designee is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against the District, inflation, or any other item reasonably related to the District's risk.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this contract. Contractor agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of the District to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of the District.

G.11 The Contractor agrees to provide insurance set forth in accordance with the requirements herein. If the Contractor uses existing coverage to comply with these requirements and that coverage does not meet the specified requirements, the Contractor agrees to amend, supplement or endorse the existing coverage to do so.

Without in anyway affecting the indemnity herein provided and in addition thereto, the Contractor shall secure and maintain throughout the contract term the following types of insurance with limits as shown:

G.11.1 Workers' Compensation/Employer's Liability – A program of Workers' Compensation insurance or a state-approved, self-insurance program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with $250,000 limits covering all persons including volunteers providing services on behalf of the Contractor and all risks to such persons under this contract.

If Contractor has no employees, it may certify or warrant to the District that it does not currently have any employees or individuals who are defined as "employees" under the Labor Code and the requirement for Workers' Compensation coverage will be waived by the District's Director of Risk Management.

With respect to Contractors that are non-profit corporations organized under California or Federal law, volunteers for such entities are required to be covered by Workers' Compensation insurance.

G.11.2 Commercial/General Liability Insurance – The Contractor shall carry General Liability Insurance covering all operations performed by or on behalf of the Contractor providing coverage for bodily injury and property damage with a combined single limit of not less than one million dollars ($1,000,000), per occurrence. The policy coverage shall include:

a. Premises operations and mobile equipment.
b. Products and completed operations.
c. Broad form property damage (including completed operations).
d. Explosion, collapse and underground hazards.
e. Personal injury.
f. Contractual liability.
g. $2,000,000 general aggregate limit.

G.11.3 Automobile Liability Insurance – Primary insurance coverage shall be written on ISO Business Auto coverage form for all owned, hired and non-owned automobiles or symbol 1 (any auto). The policy shall have a combined single limit of not less than one million dollars ($1,000,000) for bodily injury and property damage, per occurrence.

If the Contractor is transporting one or more non-employee passengers in performance of contract services, the automobile liability policy shall have a combined single limit of two million dollars ($2,000,000) for bodily injury and property damage per occurrence.

If the Contractor owns no autos, a non-owned auto endorsement to the General Liability policy described above is acceptable.

G.11.4 Umbrella Liability Insurance – An umbrella (over primary) or excess policy may be used to comply with limits or other primary coverage requirements. When used, the umbrella policy shall apply to bodily injury/property damage, personal injury/advertising injury and shall include a "dropdown" provision providing primary coverage for any liability not covered by the primary policy. The coverage shall also apply to automobile liability.

G.11.5 Professional Liability – Professional Liability Insurance with limits of not less than one million ($1,000,000) per claim and two million ($2,000,000) aggregate limits

or

Errors and Omissions Liability Insurance – Errors and Omissions Liability Insurance with limits of not less than one million ($1,000,000) and two million ($2,000,000) aggregate limits

or

Directors and Officers Insurance coverage with limits of not less than one million ($1,000,000) shall be required for Contracts with charter labor committees or other not-for-profit organizations advising or acting on behalf of the District.

If insurance coverage is provided on a "claims made" policy, the "retroactive date" shall be shown and must be before the date of the state of the contract work. The claims made insurance shall be maintained or "tail" coverage provided for a minimum of five (5) years after contract completion.

G.11.6 Environmental Contracts

a. Environmental Liability Insurance with a combined single limit of not less than five million ($5,000,000) per claim or occurrence and a separate aggregate for the contract project. The required additional insured endorsement shall protect the District without any restrictions.

b. If insurance coverage is provided on a "claims made" policy, the "retroactive date" shall be shown and must be before the date of the start of the contract work. The claims made insurance shall be maintained or "tail" coverage provided for a minimum of five (5) years after contract completion.

H. RIGHT TO MONITOR AND AUDIT

H.1 The District, State and Federal government shall have absolute right to review and audit all records, books, papers, documents, corporate minutes, and other pertinent items as requested, and shall have absolute right to monitor the performance of Contractor in the delivery of services provided under this Contract. Contractor shall give full cooperation, in any auditing or monitoring conducted. Contractor shall cooperate with the District in the implementation, monitoring, and

evaluation of this Contract and comply with any and all reporting requirements established by the District.

H.2 All records pertaining to services delivered and all fiscal, statistical and management books and records shall be available for examination and audit by District representatives for a period of three years after final payment under this Contract or until all pending District, State and Federal audits are completed, whichever is later.

I. CORRECTION OF PERFORMANCE DEFICIENCIES

I.1 Failure by Contractor to comply with any of the provisions, covenants, requirements or conditions of this Contract shall be a material breach of this Contract.

I.2 In the event of a non-cured breach, District may, at its sole discretion and in addition to any other remedies available at law, in equity, or otherwise specified in this Contract:

a. Afford Contractor thereafter a time period within which to cure the breach, which period shall be established at the sole discretion of District; and/or
b. Discontinue reimbursement to Contractor for and during the period in which Contractor is in breach, which reimbursement shall not be entitled to later recovery; and/or
c. Withhold funds pending duration of the breach; and/or
d. Offset against any monies billed by Contractor but yet unpaid by District those monies disallowed pursuant to Item “b” of this paragraph; and/or
e. Terminate this Contract immediately and be relieved of the payment of any consideration to Contractor. In the event of such termination, the District may proceed with the work in any manner deemed proper by the District. The cost to the District shall be deducted from any sum due to the Contractor under this Contract and the balance, if any, shall be paid by the Contractor upon demand.

J. NOTICES

All written notices provided for in this Contract or which either party desires to give to the other shall be deemed fully given, when made in writing and either served personally, or by email, or deposited in the United States mail, postage prepaid, and addressed to the other party as follows:

San Bernardino County Flood Control District
Department of Public Works
825 E. Third St.
San Bernardino , CA 92415

Cornerstone CC dba Cornerstone Construction
13392 Amargosa Road
Victorville, CA 92392

Notice shall be deemed communicated two (2) District working days from the time of mailing if mailed as provided in this paragraph.

K. ENTIRE AGREEMENT

This Contract, including all Exhibits and other attachments, which are attached hereto and incorporated by reference, and other documents incorporated herein, represents the final, complete and exclusive agreement between the parties hereto. Any prior agreement, promises, negotiations or representations relating to the subject matter of this Contract not expressly set forth herein are of no force or effect. This Contract is executed without reliance upon any promise, warranty or representation by any party or any representative of any party other than those expressly contained herein. Each party has carefully read this Contract and signs the same of its own free will.

L. ELECTRONIC SIGNATURES

This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one and the same Agreement. The parties shall be entitled to sign and transmit an electronic signature of this Agreement (whether by facsimile, PDF or other mail transmission), which signature shall be binding on the party whose name is contained therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed Agreement upon request.

IN WITNESS WHEREOF, the San Bernardino County Flood Control District and the Contractor have each caused this Contract to be subscribed by its respective duly authorized officers, on its behalf.

SAN BERNARDINO COUNTY FLOOD CONTROL DISTRICT

►

Dawn Rowe, Chair

Dated:

SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD

Lynna Monell
Clerk of the Board

By

Deputy

Cornerstone CC dba Cornerstone Construction Company

(Print or type name of corporation, company, contractor, etc.)

By ►

(Authorized signature - sign in blue ink)

Name Chad R. Shaules

(*Print or type name of person signing contract)*

Title CEO

(Print or Type)

Dated:

Address 13392 Amargosa Road

Victorville, CA 92392

FOR DISTRICT USE ONLY

Approved as to Legal Form	Reviewed for Contract Compliance	Reviewed/Approved by District
►	►	►
Sophie A. Curtis, Deputy County Counsel	Andy Silao, P.E.	Noel Castillo, Chief Flood Control Engineer
Date	Date	Date

EXHIBIT A

SCOPE OF WORK

A. PROJECT DESCRIPTION

Contractors will provide Public Works Maintenance Services to the District as described in this Agreement and the Request for Bid as jobs are scheduled for performance or as emergencies occur. All work must comply with local, state, federal codes, regulations and standards.

B. SERVICES REQUESTED

The Contractor must complete the Public Works Maintenance Services questionnaire and schedules in Exhibits B-1 and B-2 specifying the type of services and equipment available and service areas for which Contractor will bid as jobs are scheduled. Service pricing is not required at this time for this RFQ.

Services: All work must comply with local codes, regulations, and standards.

1. Chip Seal Material Testing Services includes, but is not limited to:
   - Aggregate Testing: Conduct sieve analysis, cleanness value, film stripping, and Los Angeles abrasion tests to assess aggregate quality and suitability for chip seal applications.
   - Binder Testing: Perform viscosity, sieve, and residue by evaporation tests on asphalt emulsions to evaluate binder properties.
   - Compatibility Testing: Assess aggregate-binder compatibility through sweep tests and film stripping evaluations.
   - Performance Testing: Evaluate aggregate retention, resistance to bleeding, and skid resistance to ensure long-term pavement performance.
   - Quality Assurance: Provide recommendations for material adjustments based on test results to meet specified standards.

2. Concrete Work Services include, but are not limited to:
   - Preparation and placement of concrete, for foundations, slabs, walls, and other structures. Formwork, reinforcement installation, concrete pouring, finishing, and curing must meet required strength and durability standards.
   - Removal and/or furnishing and installation of curb and gutter, extruded curbing, D-curbing, sidewalks, driveway entrances and ramps, ADA sidewall ramps, concrete pavement, concrete drainage swales and ditches, storm drainage structures and all incidental work associated with such items. Sidewalk grinding and cold planning for removal of hazardous uneven joints.

3. Debris Control Services includes, but is not limited to:
   - Cleaning and repair of culverts, drains, pipes, etc., may include installation and maintenance or shoring.
   - Debris removal, screening and separation of debris, the removal of large rock and boulders, pumping water, mud, and other organic material storm basins, stream beds, channels, culverts, etc.
   - Disposal may include chipping debris and transporting the waste to landfills, including all associated hauling costs and fees.
   - Testing and disposal of any hazardous and non-hazardous materials found.

4. Erosion, and Sediment Control Services includes, but is not limited to:
   - Installation of barriers, installation and maintenance of shoring, trench or slope shoring for excavation or confined spaces. Repair of damaged which includes bridge cement, asphalt work on road and flood control facilities.
   - Slope stabilization
   - Tree removal and stump grinding.

5. Electrical Services includes, but is not limited to:
   - Electrical services include, but is not limited to installation, maintenance, repair, testing, upgrades, and emergency services of electrical systems at County or District Facilities.

6. Fence Installation Services includes, but is not limited to:
   - Install, repair, replace and maintain fencing and other related services.

7. Guardrail Repair and Maintenance Services includes, but is not limited to:
   - Install, repair, replace and maintain guardrail and related services. All work shall comply with California State Department of Transportation (Caltrans) standards and guidelines, unless specified by the County or District.

8. Hazardous Waste Removal Services includes, but is not limited to:
   a. Remediation, collection, storage, handling, packaging, documentation, transportation, transfer, and disposal of hazardous wastes obtained from four separate sources:
      1. Abandoned hazardous waste discovered in the public right-of-way that is collected and transported to County Yards by County and District personnel and stored until retrieved by the contractor for proper disposal.
      2. Hazardous waste generated through daily operations by the Public Works Department.
      3. Accidental spills or discharge in the public right-of-way or County-owned property which requires contractor's emergency response to clean and remediate as determined by the County.
      4. Biohazardous Waste Removal.
         a. Remove and disposal of debris including makeshift shelters.
         b. Safely remove and decontaminate all biohazards including feces, urine, vomit, blood, and spoiled food.
         c. Remove and properly dispose of all sharps, illegal drugs, and paraphernalia.
         d. Infectious disease decontamination including but not limited to: Hepatitis A, HIV, MRSA, C. Diff, Tuberculosis.

9. Heavy Equipment Rental Services includes, but is not limited to:
   - Rental of various heavy equipment with or without an operator, equipment may include, general equipment, paving equipment, street sweepers, and truck hauling. All equipment must have the necessary attachments and be equipped to respond.

10. Pavement Maintenance & Repair Services includes, but is not limited to:
    - Cracking sealing, pothole repair, seal coating, overlay and resurfacing, installation of pavement markings, and drainage improvements.

11. Snow Removal Services, include, but is not limited to:
    - Routine and emergency snow plowing. Post storm clean-up includes the widening of roadways and intersections. Cinder operations and snow clearing. All snow removal equipment must be equipment with snow chains or necessary equipment and attachments to respond.

12. Traffic Control & Flagging Services includes, but is not limited to:
    - Setup, maintenance, and removal of traffic control devices to safely manage vehicle and pedestrian traffic around work site. This encompasses the deployment of barriers, signage, cones, and flaggers to ensure safe and efficient traffic flow.

13. Traffic Striping includes but is not limited to:
    - Preparation, marking removal, striping application, curing and protection, quality control, and clean up.

14. Weed Abatement Services includes, but is not limited to:
    - Clear vegetation, weeds, small trees (less than 3" diameter), trash, and debris using power tools typical of weed abatement, such as weed trimmers, etc. Stack piles for later removal by County personnel, potentially utilizing brush chippers, skid steer loaders, dump trucks, brush trucks, crew transportation vehicles, or small wheel loaders. Dispose of materials at the County Landfill or other designated disposal sites.

C. EQUIPMENT/SERVICE REQUIREMENTS

1. All equipment shall be of good commercial quality, in good working order, meet CAL-OSHA safety and insurance certification requirements, Vehicle Code and air quality regulations, and is subject to District approval.
2. All equipment shall arrive at jobsite safety inspected, in good working order and ready to perform.
3. Contractor's employees, agents, or representatives, charge with performing Contractor obligations under an accepted job assignment must be trained in their assigned tasks and in the operation and safe handling of the required equipment and materials. Work performed for the District shall be in a good and professional manner, subject to the reasonable satisfaction of the District, and subject to the provisions herein.
4. Contractor's employees, agents, or representatives must wear safety and protective gear according to CAL-OSHA standards and any applicable laws.
5. Contractors shall be responsible for all required traffic control, including, but not limited to signs, flagging, arrow/message boards, equipment crossing, and supervision of Contractor's personnel.
6. Contractors shall be responsible for any required notification to Dig Alert (Telephone Number 811), as well as compliance with Government Code section 4216.
7. Contractor shall be responsible for disposing of all waste material which may include but it not limited to excavated, removed, or generated waste materials, equipment and / or components including asphalt, concrete, rock, rubble, debris, or other material. Waste material shall become the property of the Contractor and shall be properly disposed of in a manner consistent with District standards.
8. Contractors shall have at least three (3) years of experience providing these types of services.
9. Contractor shall comply with any other federal, state, District or municipal law, regulation and /or contractual requirement, including, but not limited to, the laws, regulations and/or requirements of the State Department of Transportation (Caltrans), the Federal Highway Administration (FHWA), the California Emergency Management Agency (Cal EMA) or the Federal Emergency Management Agency (FEMA).
10. Contractor will be responsible for maintenance of their equipment and complete repairs or send replacement equipment as soon as possible. Contractor will be responsible for all costs.

D. REQUEST FOR BID (RFB) PROCESS

1. Contractors shall complete and sign the applicable Public Works Maintenance Services schedule forms (Exhibits B-1 and B-2) designating the service type Contractor will provide for the term of the contract. Service pricing is not required at this time.

2. Except for emergency projects, at the time the job is scheduled for performance:
   a. Contractors shall receive, via email, notification of RFB that will include specific information regarding a job. Email will be sent from DPWProcurement@dpw.sbcounty.gov,
   b. Contractors interested in providing the requested Public Works Maintenance Services will submit a bid, prices bid at the time the job is scheduled for performance shall include all labor, equipment, services, fees, materials, and supplies, and permits required to perform Contractor obligations under an accepted job assignment.
   c. Bids shall be submitted to the District by email to the address and by the deadline identified on the RFB.
   d. Bids that are not responsive to the RFB may be rejected.
   e. Bids must include a fully executed non-collusion declaration in the form identified in Public Contract Code Section 7106.
   f. If Bidder intends to subcontract any of the equipment, Bidder shall provide in the bid the name, location of the place of business, and the California contractor license number of each subcontractor who will provide the equipment to the Bidder in excess of one-half of 1 percent of the Bidder's total bid or $10,000, whichever is greater.
   g. Any Bidder submitting a bid may file a Bonding of the District's proposed award of the project, provided that each and all of the following are complied with:
      1) The bid protest is in writing.
      2) The bid protest is submitted to and received by the Department of Public Works, 825 East Third Street, Room 207, before 4:00 pm of the third business day following the bid opening. Failure to timely submit a written protest shall constitute grounds for the District's denial of the bid protest without consideration of the grounds stated in the bid protest and waiver of the right to protest. Untimely protest will not be accepted or considered.
      3) The written bid protest shall set forth, in detail, all grounds for the bid protest (including without limitations all facts, supporting documentation, legal authorities and argument in support of the ground for the bid protest), the form of relief required and the legal basis for such relief. Any grounds not set forth in the bid protest shall be deemed waived. All factual contentions must be supported by competent, admissible and credible evidence. Any bid protest not conforming to the foregoing shall be rejected as invalid.

      If a valid protest is timely filed and complies with the above requirements, the Department Chief Flood Control Engineer shall review and evaluate the bid protest. All bidders, including the protesting bidder, shall have three (3) business days to respond to the Department and to provide any information requested by the Department. The Department shall respond to the protesting bidder and state the Department's findings regarding the bid protest. The Department's Chief Flood Control Engineer's decision shall be final.

   h. For emergency projects, District reserves the right to contact any contractor or vendor directly in order to promptly respond to such emergency. Price will be negotiated at the time of contact as follows:
      1) Operated & Maintained Equipment: The price shall include all labor, equipment, services, fees, materials, supplies, and permits required to fulfill the Contractor's obligations under an accepted job assignment. All negotiated rates must be submitted to the Procurement Support Unit within five (5) business days of being called out on project. Detailed estimate must be submitted to DPWProcurement@dpw.sbcounty.gov.

      2) Bare Equipment: The price shall include daily, weekly, monthly rates plus transportation costs. Bare Equipment Rental Period for purposes of bidding are defined as follows:
         - Day: A "day" is defined as a period of twenty-four (24) consecutive hours.
         - Week: A "week" is defined as a period of seven (7) consecutive calendar days.

- Month: A "month" is defined as a period of twenty-eight (28) consecutive calendar days.

3) Services: The Contractor must submit a detailed estimate for the services to be performed within five (5) business days of being called out. Any additional markups or work that deviates from the original scope must be approved by District staff, and a revised estimate shall be submitted. Estimates can be sent to:DPWProcurement@dpw.sbcounty.gov.

i. If required by law, Contractor shall submit certified payroll for employees charged with performing Contractor obligations under an accepted job assignment weekly and upon invoice.

j. Contractors, when asked, must provide a “Certificate of Compliance” certifying that material complies with the most current Caltrans Standard Specifications of the requested material at the time RFB is due.

k. Contractors in default of their Contract or an accepted job assignment, as determined by the District may:
   1. Be disallowed from bidding on subsequent job assignments for a period of time.
   2. Have award of other accepted job assignments revoked.
   3. Have the Public Works Maintenance Services Contract cancelled.

EXHIBIT B-1
PUBLIC WORKS MAINTENANCE SERVICE SCHEDULE

Contractor Name: Cornerstone CC dba Cornerstone Construction

Please indicate all services and service areas you intend to bid on. Pricing details are not required at this time.

SERVICES	Required Licenses	Mountain	Valley	Low Desert	High Desert
Chip Seal Material Testing					
Concrete & Concrete Repair Work	A or C-8	X	X	X	X
Debris Control Services	A				
Erosion and Sediment Control	A	X	X	X	X
Electrical Services	A or C-10	X	X	X	X
Fence Repair/Installation	A or C-13	X	X	X	X
Guardrail Repair/Installation	A, C-13, C-31, C-32				
Hazardous Waste Removal	A or C-12 and HAZ				
Pavement Maintenance/Repair Services	A or C-12	X	X	X	X
Snow Removal/ Plowing Services	C-32				
Street Sweeping Services	C-61 or D-63				
Traffic Control & Flagging Services	C-31				
Traffic Striping Services	A				
Weed Abatement Services	C-27				

EXHIBIT B-2
EQUIPMENT SERVICE SCHEDULE

Contractor Name: Cornerstone CC dba Cornerstone Construction

Please indicate your available equipment by checking the appropriate boxes. For each item, specify whether it is Bare (B) or Operated (OM) -Equipment with Operator.

Equipment Type	**Foothills**		**High Desert**		**Low Desert**		**Mountains**		**Valley**	
General Equipment	**B**	**OM**	**B**	**OM**	**B**	**OM**	**B**	**OM**	**B**	**OM**
Air Compressor		X		X		X		X		X
Arrow Board		X		X		X		X		X
Backhoe		X		X		X		X		X
Concrete Pump		X		X		X		X		X
Crack Seal Melter		X		X		X		X		X
Crane		X		X		X		X		X
Dozer		X		X		X		X		X
Excavator		X		X		X		X		X
Flail Mower		X		X		X		X		X
Generator		X		X		X		X		X
Hand Tamper		X		X		X		X		X
Hydraulic Hammer		X		X		X		X		X
Hydro Axe		X		X		X		X		X
Hydrovactor		X		X		X		X		X
Jackhammer		X		X		X		X		X
Light Tower		X		X		X		X		X
Loader		X		X		X		X		X
Message Board-Changeable/Programable		X		X		X		X		X
Motor Grader		X		X		X		X		X
Mower-Boom Mower		X		X		X		X		X
Scraper, push & pull		X		X		X		X		X
Sheep Foot Tow		X		X		X		X		X
Skid Steer		X		X		X		X		X
Trash Pump		X		X		X		X		X

Equipment Type	Foothills		High Desert		Low Desert		Mountains		Valley	
General Equipment	**B**	**OM**	**B**	**OM**	**B**	**OM**	**B**	**OM**	**B**	**OM**
Trench Equipment		X		X		X		X		X
Power Screener		X		X		X		X		X

Equipment Type	Foothills		High Desert		Low Desert		Mountains		Valley	
Paving Equipment	**B**	**OM**	**B**	**OM**	**B**	**OM**	**B**	**OM**	**B**	**OM**
Asphalt Emulsion Distributor Truck		X		X		X		X		X
Berm Builders		X		X		X		X		X
Cold Planners		X		X		X		X		X
Paving Machine Track Type		X		X		X		X		X
Paving Machine Wheel Type		X		X		X		X		X
Paving Machine Asphalt Spreader		X		X		X		X		X
Rollers Vibratory Steel Drum		X		X		X		X		X
Rollers Pneumatic		X		X		X		X		X

Equipment Type	Foothills		High Desert		Low Desert		Mountains		Valley	
Snow Removal	**B**	**OM**	**B**	**OM**	**B**	**OM**	**B**	**OM**	**B**	**OM**
Motor Graders-125HP (12’-14’, mold board, front push blades, AWD)										
Motor Graders-125HP (12’-14’, mold board)										
Motor Graders-150HP (12’-14’, mold board, front push blades, AWD)										
Motor Graders-150HP (12’-14’, mold board)										
Snow Blower-100HP										
Wheel Loaders-100HP (2-1/4 CY, Bucket)										
Wheel Loaders-170HP (3-1/2 CY, Bucket)										
Wheel Loaders-250HP (5-1/2 CY, Bucket)										
Wheel Loaders-140HP (3 CY, Bucket)										
Wheel Loaders-200HP (4-1/2 CY, Bucket)										
Wheel Loaders-140HP (4-1/2 CY, w/hydraulic angel blade)										

Equipment Type	Foothills		High Desert		Low Desert		Mountains		Valley	
Snow Removal	**B**	**OM**	**B**	**OM**	**B**	**OM**	**B**	**OM**	**B**	**OM**
Wheel Loaders-200HP (4-1/2 CY, w/hydraulic angel blade)										
Wheel Loaders-100HP (4-1/2 CY, w/hydraulic angel blade)										
Wheel Loaders-1700HP (4-1/2 CY, w/hydraulic angel blade)										
Wheel Loaders-250HP (4-1/2 CY, w/hydraulic angel blade)										

Equipment Type	Foothills		High Desert		Low Desert		Mountains		Valley	
Street Sweeper	**B**	**OM**	**B**	**OM**	**B**	**OM**	**B**	**OM**	**B**	**OM**
Street Sweeper 3 CY High Dump		X		X		X		X		X
Street Sweeper 3 CY Side Dump		X		X		X		X		X
Street Sweeper 3 CY High Dump with rear roller assembly		X		X		X		X		X
Street Sweeper 3 CY Low dump w/ rear roller assembly.		X		X		X		X		X
Street Sweeper 4 CY High Dump		X		X		X		X		X
Street Sweeper 4 CY Side Dump		X		X		X		X		X
Street Sweeper 4 CY High Dump with rear roller assembly		X		X		X		X		X
Street Sweeper 4 CY Low dump w/ rear roller assembly.		X		X		X		X		X

Equipment Type	Foothills		High Desert		Low Desert		Mountains		Valley	
Truck Hauling	**B**	**OM**	**B**	**OM**	**B**	**OM**	**B**	**OM**	**B**	**OM**
Bottom Dump		X		X		X		X		X
Dump Trucks		X		X		X		X		X
Dump Truck Spreader Bar/Chip Bar		X		X		X		X		X
Dump Truck Off Road		X		X		X		X		X
End Dump Low Sides		X		X		X		X		X
22-Yard Super Dump		X		X		X		X		X
Low Bed & Tractor		X		X		X		X		X

Equipment Type	Foothills		High Desert		Low Desert		Mountains		Valley	
Truck Hauling	**B**	**OM**	**B**	**OM**	**B**	**OM**	**B**	**OM**	**B**	**OM**
Truck& Transfer Trailer		X		X		X		X		X
Water Truck 6x4 (3,000-4,000 gallon)		X		X		X		X		X
Water Truck 6x6 (3,000-4,000 gallon)		X		X		X		X		X

ATTACHMENT A

PREVAILING WAGE REQUIREMENTS

A. All or a portion of the Scope of Work in the Contract requires the payment of prevailing wages and compliance with the following requirements:

1. Determination of Prevailing Rates:

Pursuant to California Labor Code sections 1770, et seq., the District has obtained from the Director of the Department of Industrial Relations (DIR) pursuant to the Labor Code, the general prevailing rates of per diem wages and the prevailing rates for holiday and overtime work in the locality in which the Scope of Work is to be performed. Copies of said rates are on file with the District, will be made available for inspection during regular business hours, may be included elsewhere in the specifications for the Scope of Work, and are also available online at https://www.dir.ca.gov/OPRL/DPreWageDetermination.htm . The wage rate for any classification not listed, but which may be required to execute the Scope of Work, shall be commensurate and in accord with specified rates for similar or comparable classifications for those performing similar or comparable duties. In accordance with Labor Code section 1773.2, the Contractor shall post, at appropriate and conspicuous locations on the job site, a schedule showing all applicable prevailing wage rates and shall comply with the requirements of Labor Code sections 1773, et seq.

2. Payment of Prevailing Rates

Each worker of the Contractor, or any subcontractor, engaged in the Scope of Work, shall be paid not less than the general prevailing wage rate, regardless of any contractual relationship which may be alleged to exist between the Contractor or any subcontractor, and such worker.

3. Prevailing Rate Penalty

The Contractor shall, as a penalty, forfeit two hundred dollars ($200.00) to the District for each calendar day or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of the DIR for such work or craft in which such worker is employed by the Contractor or by any subcontractor in connection with the Scope of Work. Pursuant to Labor Code section 1775, the difference between such prevailing wage rates and the amount paid to each worker for each calendar day, or portion thereof, for which each worker was paid less than the prevailing wage rate, shall be paid to each worker by the Contractor.

4. Ineligible Contractors:

Pursuant to the provisions of Labor Code sections 1777.1 and 1771.1(o), the Labor Commissioner publishes and distributes a list of contractors ineligible to perform work as a contractor or subcontractor on a public works project. This list of debarred contractors is available from the DIR website at https://www.dir.ca.gov/dlse/debar.html. Any contract entered into between a contractor and a debarred subcontractor is void as a matter of law. A debarred subcontractor may not receive any public money for performing work as a subcontractor on a public works contract, and any public money that may have been paid to a debarred subcontractor by a contractor on the project shall be returned to the District. The Contractor shall be responsible for the payment of wages to workers as a debarred subcontractor who has been allowed to work on the Scope of Work.

5. Payroll Records:

a. Pursuant to Labor Code section 1776, the Contractor and each subcontractor, shall keep accurate certified 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 them in connection with the Scope of Work. The payroll records enumerated herein shall be verified by a written declaration made under penalty of perjury that the information contained in the payroll record is true and correct and that the Contractor or subcontractor has complied with the requirements of the Labor Code sections 1771, 1811, and 1815 for any Scope of Work performed by his or her employees. The payroll records shall be available for inspection at all reasonable hours at the principal office of the Contractor on the following basis:

i. A certified copy of an employee's payroll record shall be made available for inspection or furnished to such employee or his/her authorized representative on request;

ii. A certified copy of all payroll records shall be made available for inspection or furnished upon request to the District and the Division of Labor Standards Enforcement of the DIR;

iii. A certified copy of payroll records shall be made available upon request to the public for inspection or copies thereof made; provided, however, that a request by the public shall be made through either the District or the Division of Labor Standards Enforcement. If the requested payroll records have not been previously provided to the District or the Division of Labor Standards Enforcement, the requesting party shall, prior to being provided the records, reimburse the cost of preparation by the Contractor, subcontractor and the entity through which the request was made; the public shall not be given access to such records at the principal office of the Contractor;

iv. The Contractor shall file a certified copy of the payroll records with the entity that requested such records within ten (10) days after receipt of a written request; and

v. Copies provided to the public, by the District or the Division of Labor Standards Enforcement shall be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address and social security number. The name and address of the Contractor or any subcontractor, performing a part of the Scope of Work shall not be marked or obliterated. The Contractor shall inform the District of the location of payroll records, 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. The Contractor shall have ten (10) days from receipt of the written notice specifying in what respects the Contractor must comply with the above requirements. In the event Contractor does not comply with the requirements of this section within the ten (10) day period, the Contractor shall, as a penalty to the County, forfeit one-hundred dollars ($100.00) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Labor Standards Enforcement, such penalty shall be withheld from progress payments then due to the Contractor. A contractor is not subject to a penalty assessment pursuant to this section due to the failure of a subcontractor to comply with this section.

c. At least monthly (at least once every 30 days), the Contractor and all subcontractors must submit electronic certified payroll records online to the Labor Commissioner, in a format prescribed by the Labor Commissioner. The District reserves the right to require Contractor and all subcontractors to submit certified payroll to the Labor Commissioner more frequently than monthly.

i. A contractor or subcontractor who fails to furnish electronic certified payroll records to the Labor Commissioner as required by Labor Code section 1771.4, is subject to a penalty by the Labor Commissioner of one hundred dollars ($100) per day, until such payroll records are furnished, not to exceed a total penalty of five thousand dollars ($5,000) per project.

ii. This requirement does not apply to public works projects $25,000 or less when the project is for construction, alteration, demolition, installation or repair work, or if the public works project is $15,000 or less when the project is for maintenance work. However, the Contractor must still keep accurate certified payroll records and retain those records, as specified in Labor Code section 1776, for at least three years after completion of the work.

6. Limits on Hours of Work:

Pursuant to Labor Code section 1810, eight (8) hours of labor shall constitute a legal day's work. Pursuant to Labor Code section 1811, the time of service of any worker employed at any time by the Contractor or by a subcontractor, upon the Scope of Work or upon any part of the Scope of Work, is limited and restricted to eight (8) hours during any one calendar day and forty (40) hours during any one calendar week, except as provided for under Labor Code section 1815. Notwithstanding the foregoing provisions, work performed by employees of Contractor or any subcontractor, in excess of eight (8) hours per day and forty (40) hours during any one week, shall be permitted upon compensation for all hours worked in excess of eight (8) hours per day at not less than one and one-half (1½) times the basic rate of pay.

7. Penalty for Excess Hours:

The Contractor shall pay to the District a penalty of twenty-five dollars ($25.00) for each worker employed on the Scope of Work by the Contractor or any subcontractor, for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any calendar day and forty (40) hours in any one calendar week, in violation of the provisions of the Labor Code, unless compensation to the worker so employed by the Contractor is not less than one and one-half (1½) times the basic rate of pay for all hours worked in excess of eight (8) hours per day.

8. Jobsite Notices

This project is subject to compliance, monitoring, and enforcement by the DIR. As required by the DIR, Contractor is required to post jobsite notices, as prescribed by regulation, regarding compliance monitoring and enforcement by the DIR.

9. Registration with the DIR (Labor Code section 1725.5)

a. Contractor must be registered with the DIR to bid or submit a proposal on this project, unless the public works project is $25,000 or less when the project is for construction, alteration, demolition, installation or repair work, or if the public works project is $15,000 or less when the project is for maintenance work. No contractor or subcontractor may be listed on a bid proposal for a public works project unless registered with the DIR pursuant to Labor Code section 1725.5, with limited exceptions from this requirement for bid purposes only as allowed under Labor Code sections 1771.1(a) and 1725.5(f).

i. An inadvertent error in listing a subcontractor who is not registered pursuant to Labor Code section 1725.5 in a bid proposal shall not be grounds for filing a bid protest or grounds for considering the bid nonresponsive, provided that any of the following apply:

1) The subcontractor is registered prior to the bid opening.
2) Within 24 hours after the bid opening, the subcontractor is registered and has paid the penalty registration fee.
3) The subcontractor is replaced by another registered subcontractor pursuant to Section 4107 of the Public Contract Code.

b. Contractor must be registered with the DIR (unless an exception applies) to be awarded a contract or perform any work on this project. No contractor or subcontractor may be awarded a contract for a public work project or perform work on a public works project unless registered with the DIR pursuant to Labor Code section 1725.5 (unless an exception applies).
    i. A contract entered into with any contractor or subcontractor in violation Labor Code section 1725.5 shall be subject to cancellation.
    ii. If the Labor Commissioner determines that a contractor or subcontractor engaged in the performance of any public work contract without having been registered in accordance with Labor Code section 1771.1, the contractor or subcontractor is subject to civil penalties of one hundred dollars ($100) for each day of work performed in violation of the registration requirement, not to exceed an aggregate penalty of eight thousand dollars ($8,000), payable to the state. Contractor may also be subject to additional penalties, up to an additional $10,000, for entering into a contract with an unregistered subcontractor.
    iii. Where a contractor or subcontractor engages in the performance of any public work contract without having been registered with the DIR, the Labor Commissioner shall issue and serve a stop order prohibiting the use of the unregistered contractor or subcontractor on all public works until they are registered. The stop order shall not apply to work by registered contractors or subcontractors on the public work. Any employee of an unregistered contractor or subcontractor who is affected by a work stoppage ordered by the commissioner shall be paid at their regular hourly prevailing wage rate by that employer for any hours the employee would have worked but for the work stoppage, not to exceed 10 days. Failure of a contractor or subcontractor to observe a stop order issued and served upon them is guilty of a misdemeanor punishable by imprisonment in county jail up to 60 days or by a fine of up to ten thousand dollars ($10,000), or both.

c. To qualify for registration with the DIR, Contractor must meet all requirements listed in Labor Code Section 1725.5.

d. Registration with the DIR is not required if the public works project is $25,000 or less when the project is for construction, alteration, demolition, installation, or repair work, or if the public works project is $15,000 or less when the project is for maintenance work.

B. STATE PUBLIC WORKS APPRENTICESHIP REQUIREMENTS

1. State Public Works Apprenticeship Requirements:

a. The Contractor is responsible for compliance with Labor Code section 1777.5 and the California Code of Regulations, title 8, sections 230 – 230.2 for all apprenticeable trades or crafts (denoted with "#" symbol next to craft name in DIR Prevailing Wage Determination), whether employed by the Contractor, subcontractor, vendor or consultant. Included in these requirements is (1) the Contractor's requirement to provide notification (i.e. DAS-140) to the appropriate apprenticeship committees; (2) pay training contributions for each apprenticeable hour employed on the Contract to either the local training fund or the California Apprenticeship Council; and (3) utilize apprentices in a minimum ratio of not less than one apprentice hour for each five journeyman hours by completion of Contract work (unless an exemption is granted in accordance with Labor Code section 1777.5) or request for the dispatch of apprentices.

b. Any apprentices employed to perform any of the Scope of Work shall be paid the prevailing rate of per diem wages for apprentices in the craft or trade for which such apprentice is employed, and such individual shall be employed only for the work of the craft or trade to which such individual is registered. Unless otherwise provided by a collective bargaining agreement, when the Contractor requests the dispatch of an apprentice to perform work on a public works project and requires the apprentice to fill out an application or undergo testing, training, an examination, or other preemployment process as a condition of employment, the apprentice shall be paid for the time spent on the required preemployment activity, including travel time to and from the required activity, if any, at the prevailing rate of per diem wages for apprentices in the trade to which he or she is registered. Unless otherwise provided by a collective bargaining agreement, Contractor is not required to compensate an apprentice for the time spent on preemployment activities if the apprentice is required to take a preemployment drug or alcohol test and he or she fails to pass that test.

c. Only apprentices, as defined in Labor Code section 3077, who are in training under apprenticeship standards and written apprenticeship agreements under Labor Code sections 3070 et seq. are eligible to be employed for the Scope of Work. The employment and training of each apprentice shall be in accordance with the provisions of the apprenticeship standards and apprentice agreements under which such apprentice is training, or the rules and regulations of the California Apprenticeship Council.

2. Compliance with Labor Code section 1777.5 requires all public works contractors to:

a. Submit Contract Award Information (DAS-140) to an applicable apprenticeship program that can supply apprentices to the site of the public work. The information submitted must include the contractor's name, address, telephone number and state license number; the full name and address of the public work awarding body; the exact location of the public work site; the date of the contract award; an estimate of

journeyman hours to be performed under the contract; the number of apprentices proposed to be employed; and the approximate dates the apprentices would be employed.

b. Although there are a few exemptions (identified below), all Contractors, regardless of union affiliation, must submit contract award information when performing on a California public works project.
c. The DAS-140 is a notification "announcement" of the Contractor's participation on a public works project—*it is not a request for the dispatch of an apprentice (to do this use DAS Form 142).*
d. Contractors shall submit the contract award information (you may use form DAS 140) within 10 days of the execution of the prime contract or subcontract, but in no event later than the first day in which the Contractor has workers employed on the public work.
e. Contractors who are already approved to train apprentices (i.e. check "Box 1" on the DAS-140) shall only be required to submit the form to their approved program.
f. Contractors who are NOT approved to train apprentices (i.e. those that check either "Box 2" or "Box 3" on the DAS-140) shall submit the DAS-140 TO EACH of the apprenticeship program sponsors in the area of your public works project. For a listing of apprenticeship programs see http://www.dir.ca.gov/Databases/das/pwaddrstart.asp.
g. Employ Registered Apprentices
    i. Labor Code section 1777.5 requires that a contractor performing work in an "apprenticeable" craft or trade must employ one (1) hour of apprentice work for every five (5) hours performed by a journeyman, not including overtime hours. If Contractor has agreed to be covered by an apprenticeship program's standards, Contractor must employ the number of apprentices or the ratio of apprentices to journeymen stipulated in the applicable apprenticeship standards, which cannot be less than the 1 to 5 ratio required above.
    ii. Contractor must attempt, to the greatest extent possible, to employ apprentices during the same time period that the journeyman in the same craft or trade are employed at the jobsite. This ratio shall be met prior to the Contractor's completion of work on the project. "Apprenticeable" crafts or trades are denoted with a pound symbol "#" in front of the craft or trade name on the prevailing wage determination.
    iii. All Contractors who do not fall within an exemption category (see below) must request for dispatch of an apprentice from an apprenticeship program (for each apprenticeable craft or trade) by giving the program actual notice of at least 72 hours (business days only) before the date on which apprentices are required.
    iv. Contractors may use the "DAS-142" form for making a request for the dispatch of an apprentice.
    v. Contractors who are participating in an approved apprenticeship training program and who did not receive sufficient number of apprentices from their initial request must request dispatch of apprentices from ALL OTHER apprenticeship committees in the project area in order to fulfill this requirement.
    vi. Contractor should maintain and submit proof (when requested) of its DAS-142 submittal to the apprenticeship committees (e.g. fax transmittal confirmation). A Contractor has met its requirement to employ apprentices only after it has successfully made a dispatch request to all apprenticeship programs in the project area.
    vii. Apprentices employed to fulfill the requirements of Labor Code section 1777.5 must be registered apprentices who are training under apprenticeship standards that include the work processes that the Contractor will perform on the project. Where a Contractor employs apprentices under the rules and regulations of the California Apprenticeship Council, apprentices must, at all times work under the direct supervision of a Journeyman (Cal. Code Regs., tit 8, § 230.1).
h. Make Training Fund Contributions
    i. Contractors performing in apprenticeable crafts or trades on public works projects, must make training fund contributions to the California Apprenticeship Council, in the amount established by the Director of the Department of Industrial Relations as the prevailing amount for apprenticeship training contributions in the area of the public works site.
    ii. Contractors may use the "CAC-2" form for submittal of their training fund contributions.
    iii. Contractors may take as a credit for payments to the Council any amounts paid by the contractor to an approved apprenticeship program that can supply apprentices to the site of the public works project.
    iv. Training fund contributions are due and payable on the 15th day of the month for work performed during the preceding month.
i. Submit a Verified Statement within 60 Days of Conclusion of Work Under the Contract
    i. Each contractor and subcontractor must submit a verified statement of the journeyman and apprentice hours performed on the contract, which information shall be public and retained by the apprenticeship programs for 12 months.

3. Exemptions to Apprenticeship Requirements:

a. The following are exempt from having to comply with California apprenticeship requirements. These types of contractors do not need to submit a DAS-140, DAS-142, make training fund contributions, or utilize apprentices:
    i. Contractors performing in non-apprenticeable crafts. "Apprenticeable" crafts are denoted with a pound symbol "#" in front of the craft name on the prevailing wage determination.
    ii. When the Contractor has a direct contract with the public agency that is under $30,000.
    iii. When the project is 100% federally-funded and the funding of the project does not contain any city, county, and/or state monies (unless the project is administered by a state agency in which case the apprenticeship requirements apply).
    iv. When the project is a private project not covered by the definition of public works as found in Labor Code section 1720 et seq.

4. Exemption from Apprenticeship Ratios:

a. The Administrator of Apprenticeship may grant a certificate exempting the Contractor from the 1-to-5 ratio set forth in this Section if Contractor can show that he or she employs apprentices in a particular craft or trade in the state on all of his or her contracts on an annual average of not less than one hour of apprentice work for every five hours of labor performed by journeymen
b. An apprenticeship program has the discretion to grant a certificate to a participating contractor or contractor association which shall be subject to the approval of the Administrator of Apprenticeship, exempting the Contractor from the 1-to-5 ratio set forth in this Section when it finds that any one of the following conditions are met:
    i. Unemployment for the previous three-month period in such area exceeds an average of fifteen percent (15%); or
    ii. The number of apprentices in training in such area exceeds a ratio of 1-to-5 in relation to journeymen; or
    iii. There is a showing that the apprenticeable craft or trade is replacing at least one-thirtieth (1/30) of its journeymen annually through apprenticeship training, either on a statewide basis or on a local basis; or
    iv. Assignment of an apprentice to any work performed under the Contract documents would create a condition which would jeopardize such apprentice's 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 journeyman.
c. When an exemption from subsection b. above is granted to an organization which represents contractors in a specific trade on a local or statewide basis, the member contractors will not be required to submit individual applications for approval to local joint apprenticeship committees, provided they are already covered by the local apprenticeship standards.

5. Contractor's Compliance:

a. The responsibility for compliance with this Section for all apprenticeable trades or crafts is solely and exclusively that of the Contractor. Violations of Labor Code section 1777.5 are subject to penalties pursuant to Labor Code section 1777.7, as determined by the Labor Commissioner.

ATTACHMENT B

PUBLIC CONTRACT CODE RESOLUTION OF CONSTRUCTION CLAIMS
SECTIONS 9204, 20104, 20104.2, 20104.4, 20104.6 AND 20104.50

9204

(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.

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.

20104.2 For any claim subject to this article, the following requirements apply:

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

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

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

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

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

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

(3) The local agency's written response to the claim, as further documented, shall be submitted to the claimant within 30 days after receipt of the further documentation, or within a period of time no greater than that taken by the claimant in producing the additional information or requested documentation, whichever is greater.

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

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

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

20104.4 The following procedures are established for all civil actions filed to resolve claims subject to this article:

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

(b)(1) If the matter remains in dispute, the case shall be submitted to judicial arbitration pursuant to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, notwithstanding Section 1141.11 of that code. The Civil Discovery Act (Title 4 (commencing with Section 2016.10) of Part 4 of the Code of Civil Procedure) shall apply to any proceeding brought under this subdivision consistent with the rules pertaining to judicial arbitration.

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

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

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

20104.6
(a) No local agency shall fail to pay money as to any portion of a claim which is undisputed except as otherwise provided in the contract.

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

ARTICLE 1.7
Modification; Performance, Payment
20104.50
(a) (1) It is the intent of the Legislature in enacting this section to require all local governments to pay their contractors on time so that these contractors can meet their own obligations. In requiring prompt payment by all local governments, the Legislature hereby finds and declares that the prompt payment of outstanding receipts is not merely a municipal affair, but is, instead, a matter of statewide concern.

(2) It is the intent of the Legislature in enacting this article to fully occupy the field of public policy relating to the prompt payment of local governments' outstanding receipts. The Legislature finds and declares that all government officials, including those in local government, must set a standard of prompt payment that any business in the private sector which may contract for services should look towards for guidance.

(b) Any local agency which fails to make any progress payment within 30 days after receipt of an undisputed and properly submitted payment request from a contractor on a construction contract shall pay interest to the contractor equivalent to the legal rate set forth in subdivision (a) of Section 685.010 of the Code of Civil Procedure.

(c) Upon receipt of a payment request, each local agency shall act in accordance with both of the following:

(1) Each payment request shall be reviewed by the local agency as soon as practicable after receipt for the purpose of determining that the payment request is a proper payment request.

(2) Any payment request determined not to be a proper payment request suitable for payment shall be returned to the contractor as soon as practicable, but not later than seven days, after receipt. A request returned pursuant to this paragraph shall be accompanied by a document setting forth in writing the reasons why the payment request is not proper.

(d) The number of days available to a local agency to make a payment without incurring interest pursuant to this section shall be reduced by the number of days by which a local agency exceeds the seven-day return requirement set forth in paragraph (2) of subdivision (c).

(e) For purposes of this article:

(1) A “local agency” includes, but is not limited to, a city, including a charter city, a county, and a city and county, and is any public entity subject to this part.

(2) A “progress payment” includes all payments due contractors, except that portion of the final payment designated by the contract as retention earnings.

(3) A payment request shall be considered properly executed if funds are available for payment of the payment request, and payment is not delayed due to an audit inquiry by the financial officer of the local agency.

(f) Each local agency shall require that this article, or a summary thereof, be set forth in the terms of any contract subject to this article.

ATTACHMENT C
LOCAL PREFERENCE SELF-CERTIFICATION FORM

SAN BERNARDINO COUNTY | Purchasing

LOCAL VENDOR PREFERENCE SELF-CERTIFICATION

Vendor Legal Name _____

Vendor Representative _____

Vendor Address _____

City, State, Zip _____

Phone _____

Email _____

Federal Tax ID # _____

TO BE CERTIFIED AS A LOCAL VENDOR, eligible for Local Vendor Preference (any vendor, contractor or consultant, hereafter "vendor") I certify under penalty of perjury that _____ meets all of the following requirements:

- The main office (headquarters) or a major regional office is located within the boundaries of San Bernardino County;
- Twenty-five percent (25%) of full-time management employees and twenty-five percent (25%) of full-time regular employees work from locations in the County;
- Employ at least one full-time or two part-time employees with primary residence in the County;
- "Point of sale" for purposes of reporting sales tax to the State Board of Equalization (if applicable) is within the boundaries of the County and payment of any local share of sales tax goes to the County or a city within the County. (If the local business has more than one sales office in the State of California, the office located in the County shall be the point of sale for sales tax calculation);
- Not delinquent in any taxes or other payments to the County;
- Possess a valid and verifiable business license in _____ (if required);
  Location(s)
- Have been open and established since _____;
  Date
- Have had on-going business activity in the field of _____ since _____ (which is at least six months prior to the issuance of the solicitation);
  Nature of Business *Date*
- Have not, within five years prior to the date this form is signed, admitted guilt or been found guilty by any court or state or federal regulatory enforcement agency of violation of any criminal law or any law or regulation regarding fraud and not federally debarred; and
- Not suspended or debarred from participation in the County, in the scope of work that is the subject of the solicitation.

FURTHER, I acknowledge by initialing the following boxes that I understand:

____ If any time after being certified as a local vendor, a change in status occurs rendering a vendor no longer eligible for such status, the vendor must notify the Purchasing Agent prior to responding to a solicitation or accepting an award. Self certification is good for a period of five years, then must be renewed.

____ False certifications shall be immediate grounds for rejection of any proposal or bid or if the proposal or bid is awarded, grounds for voiding the proposal or bid, terminating any agreement, and seeking damages thereto. Failure to certify the above information shall result in the proposal or bid being considered by the County without any adjustment for a local vendor.

____ Self-certification provided by the vendor requesting a local preference shall be submitted to the Purchasing Agent under penalty of perjury. No person or business shall make a false representation to a County official or employee for the purpose of influencing the certification or denial of certification of any local vendor.

____ Any vendor that falsely obtains certification shall be ineligible to transact business with the County for not less than one year and not more than three years, at the discretion of the Purchasing Agent. This penalty shall also apply to any vendor that previously obtained proper certification and, because of a change in its status would no longer be eligible for certification, and fails to notify the County of this information prior to responding to a solicitation or accepting an award.

I am an authorized representative of _____ and can legally bind the company.

_____ *Date* | _____ *Name* | _____ *Position*

Reviewed By: