



Contract Number

SAP Number
4400031604

Project & Facilities Management

Department Contract Representative	<u>Richard Ayala</u>
Telephone Number	<u>(909) 387-5111</u>
Contractor	<u>Bernel, Inc. dba VFS Fire & Security Services</u>
Contractor Representative	<u>Mario Lopez</u>
Telephone Number	<u>(714) 778-6070</u>
Contract Term	<u>7/1/26 – 6/30/31</u>
Original Contract Amount	<u>\$ 1,393,560</u>
Not-to-Exceed Amount	<u>\$ 750,000</u>
Total Contract Amount	<u>\$ 2,143,560</u>
Cost Center	<u>7302001000</u>
Grant Number (if applicable)	<u>n/a</u>

IT IS HEREBY AGREED AS FOLLOWS:

WHEREAS, San Bernardino County (County) desires to obtain fire monitoring, testing/inspection and repair services at various locations; and

WHEREAS, the County conducted a competitive process to find Bernel, Inc. dba VFS Fire & Security Services (Contractor) to provide these services, and

WHEREAS, the County finds Contractor qualified to provide fire monitoring, testing/inspection and repair services; and

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

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

A. RESERVED

B. CONTRACTOR RESPONSIBILITIES

B.1 Contractor shall:

B.1.1 Provide regular alarm system monitoring and notification services utilizing a UL approved Central Station.

- B.1.2** Provide and maintain a Central Station with twenty-four (24) hour, seven (7) days per week service capable of notifying responsible Parties and dispatching service personnel to all County owned buildings.
- B.1.3** Respond within four (4) hours for emergency repair services.
- B.1.4** Provide an Alarm Incident Report for each occurrence within twenty-four (24) hours to the County electronically.
- B.1.5** For requested maintenance and repair service, evaluate the specific materials and labor required to complete the maintenance or repair, develop an estimate of expected cost, including hours and materials required, and provide the Assistant Director of the Facilities Management Division or designee with a cost estimate, by email or fax prior to proceeding with work.
- B.1.6** Proceed with the maintenance or repair work only after authorization from the Assistant Director of the Facilities Management Division or designee.
- B.1.7** Complete all work in accordance with the cost and time estimate provided or contact the Assistant Director of the Facilities Management Division or designee for additional authorization when the repair is estimated to exceed the original quote.
- B.1.8** Warranty all labor and materials used in the work for a period of one (1) year (or in accordance with manufacturer's warranty, if longer) after completion of repairs. Provide copies of manufacturer's warranty after completion of repairs to the County.
- B.1.9** Identify and advise the County of any additional repair or maintenance work that may be required to maintain the efficient operation and useful life of the equipment.
- B.1.10** Normal cleaning and preventive maintenance are to be included at the time of repair at no additional cost.
- B.1.11** Within seven (7) days of the commencement of each Contract year, the Contractor shall begin to adhere to County's provided schedule to clean and inspect all devices related to fire and life safety and replace all worn and non-functioning component parts.
- B.1.12** The work shall consist in general of
- a. Testing and inspection of Fire-Life Safety Systems in accordance with regulatory requirements and NFPA standards
 - b. Maintaining the Fire-Life Safety Systems to include all of its component parts and repair of system as necessary to keep the system operational at all times.
- B.1.13** Proposer shall furnish all tools, equipment, and instruments required to maintain and test the fire systems in accordance with these requirements including any special or adjustment tools, lift equipment or instruments.
- a. All parts and materials shall be new and shall meet or exceed the original equipment manufacturer's specifications with County approval.
 - b. The County shall approve any parts other than those manufactured by the original manufacturer before they are incorporated into any work.
 - c. Proposer shall maintain a reasonable supply system for acquisition of additional parts either immediately or with minimal delay.
 - d. Adjust/calibrate the control components in accordance with the manufacturer's specifications.
 - e. Ensure the control panel is fully functional in regular and emergency power mode.

- f. Ensure all operating instructions are visibly seen and legible.
- g. Test and date all batteries, replace as needed. Replace all batteries 5 years and older.

B.1.14 Fire Alarm System: Inspect and Test 100% of the fire alarm system components. All inspections and testing frequencies will be kept in accordance with NFPA 72 requirements or the strictest code required by the authority having jurisdiction (AHJ), to include but not limited to:

- The following Fire Alarm System components shall be included in each Inspection and Testing:
 - a. Fire Alarm Control Panel (FACP) Equipment – Annually per NFPA 72
- Interface Devices – Annually per NFPA 72
- Smoke Detectors – Annually per NFPA 72
- Heat Detectors – Annually per NFPA 72
- HVAC Duct Detectors – Annually per NFPA 72
- Smoke/Fire Dampers – Annually per NFPA 72
- Electromechanical Releasing Devices (Automatic Fire Doors) – Annually per NFPA 72
- Pre-Action Panels – Semiannually per NFPA 72
- Roll Down/Sliding Fire Doors – Annually per NFPA 72
- Valve Tamper Switches – Semiannually per NFPA 72
- Water Flow Devices – Quarterly per NFPA 72
- Other Supervisory Signal Devices – Quarterly per NFPA 72
- Manual Pull Stations – Annually per NFPA 72
- Audible Devices – Annually per NFPA 72
- Visual Devices – Annually per NFPA 72
- Batteries (sealed lead acid type) – Annually per NFPA 72

B.1.15 Fire Sprinkler System: Inspect and Test 100% of the fire Sprinkler system components. All inspections and testing frequencies will be kept in accordance with NFPA 25 or the strictest code required by the AHJ, to include but not limited to:

- Pre-Action Deluge per NFPA 25
- Sprinkler Both Annual and 5 Year per NFPA 25
- Hydrant per NFPA 25
- Fire Pumps per NFPA 25
- Clean Agent System per NFPA 2001

B.1.16 Emergency Call Outs

- a. Supply labor and all associated costs for company staff to respond to emergency call outs, as result of a fire alarm and or sprinkler situation that cannot be corrected by the County. Proposer shall provide a written cost for repair, if needed, for the system within 1 working day of any false alarm.

B.1.17 Materials

- a. Contractor Shall:
 - i. Maintain a reasonable supply of parts for equipment under Scope of Work, which is in use by the County.
 - ii. Maintain a reasonable supply system for acquisition of additional parts, which will provide all the necessary, parts either immediately or with minimal delay.
 - iii. Ensure that all parts used in the performance of this work meets or exceed the manufacturer's original equipment specifications. Whenever possible and practical, original equipment parts shall be used.
 - iv. Furnish, install and maintain all warning devices required to adequately protect the public, County staff and County property during the performance of the work.
 - v. Warranty all labor and materials used in the work performed under this Contract for a period of one (1) year, (or in accordance with manufacturer's warranty) after completion of repairs(s). All replacement parts are to be new and of the same

manufacture as equipment being worked upon. Provide copies of manufactures warranty after completion of repairs to the County.

- b. The County reserves the right to use alternate sources for completion of the work, to obtain competitive bids on any repair and to use the data provided under this Contract relative to necessary materials and repairs.

B.2 Adding/Deleting Locations

The County reserves the right to add or delete locations that will be serviced by CONTRACTOR. The Director of the Project & Facilities Management Department is authorized, on behalf of the County, to delete locations from the list of sites serviced by CONTRACTOR by notifying CONTRACTOR in writing of the locations that will be deleted from service. CONTRACTOR agrees that payment to CONTRACTOR will be reduced by the amount charged by CONTRACTOR to service the deleted locations. If the County desires to add a location to be serviced by CONTRACTOR, the parties will negotiate a fee for the service of the additional location and a contract amendment will be signed by CONTRACTOR and approved by the San Bernardino County Board of Supervisors or the Purchasing Department, as authorized.

B.3 Supervision

The CONTRACTOR'S supervisory personnel shall regularly inspect the premises, work performed by the CONTRACTOR'S personnel and shall exercise complete authority over all such employees. The CONTRACTOR shall immediately remove any employee whose conduct or workmanship is unsatisfactory to the County.

B.4 Reports

The CONTRACTOR shall provide the necessary communications and completed reports to the County and the State as required by Federal, State of California and Local regulations.

B.5 Job Standards

All work performed by the CONTRACTOR shall meet or exceed all applicable safety, environmental, regulations and trade codes. Workmanship shall be in the best standard practices of the trade. Reasonable care needs to be taken while performing tasks in and around County property and the CONTRACTOR must repair any damage made by the CONTRACTOR in an appropriate and timely manner. The work area shall be clean and free of debris continuously throughout the workday. Special attention to material and tool control shall be exercised in ALL security areas and/or those areas accessed by inmates. Work shall not impede County business, create a nuisance, or endanger County employees and/or the Public. The CONTRACTOR shall take into consideration that during the course of the Contract, County personnel and/or other CONTRACTORS may conduct other activities and operations within the service areas. CONTRACTOR'S work shall not impede or impact the work of others or County personnel using the location.

B.6 Laws and Regulations

The CONTRACTOR shall be responsible for complying with all applicable Federal and State statutes, codes and regulations including Cal/OSHA, for all work including required REPAIRS, POSTINGS, MONITORING, TESTING, TRAINING, RECORD KEEPING and REPORTING. The CONTRACTOR shall keep the County apprised of all new laws and regulations affecting services and provide all necessary reports and estimated costs needed for future capital improvements.

B.7 Equipment

All equipment shall be of good commercial quality and meet with Cal/OSHA safety requirements, and shall be subject to the approval of the County. The County may inspect all supplies and equipment furnished by the CONTRACTOR and require inferior supplies be replaced to the satisfaction of the County. All CONTRACTOR equipment and tools stored in

County owned areas are to be clearly identified as CONTRACTOR owned equipment and tools and stored in appropriate storage containers.

B.8 Safety Measures

B.8.1 Security

Security is a great concern of the County. The CONTRACTOR is advised that failure to fully comply with the security requirements of the contract shall result in the termination of the contract for default.

- a. All persons performing duties under the Contract shall be acceptable to the COUNTY. This shall include all owners of sole proprietorships, partnerships, joint ventures, principals of corporations and all others who might have access to COUNTY facilities without the supervision of a COUNTY employee.
- b. Acceptability shall be determined by:
 1. Background investigation.
 2. The County's previous experience with the individual (if applicable).
- c. Only those individuals, who have been determined to be acceptable by the COUNTY, have received their COUNTY issued Identification (ID) Cards, and who have been designated on the Contract as the CONTRACTOR providing service to the facility, shall be allowed to work in COUNTY facilities. Individuals no longer working for the CONTRACTOR shall return ID Cards to the COUNTY upon separation.
- d. The CONTRACTOR shall pay for each initial identification (ID) badge and any replacement badge thereafter. Payment shall be made in the form of a money order. The current fee for each ID badge is one hundred seven dollars and fifty-one cents (\$107.51), however, the fee for ID badges is set by individual COUNTY departments and subject to change at any time. CONTRACTOR will be responsible for and required to pay any increase in the fee.
- e. Those individuals who fail a background investigation shall not be allowed to work in any COUNTY facility.
- f. The CONTRACTORS' use of unauthorized personnel will result in immediate contract termination for all approved CONTRACTOR contracts at this site and any other location CONTRACTOR provides Landscaping services.
- g. The misuse of any CONTRACTOR issued ID cards, Access Control Card, keys or alarm codes by the CONTRACTOR or any of the employees of the CONTRACTOR shall be considered as failure to fully comply with the security requirements of this contract and shall be considered grounds for termination of the contract.

B.8.2 Background Investigation

- a. If requested by the County, all personnel employed through the contracted CONTRACTOR, and working under this contract shall undergo and pass a San Bernardino County District Attorney conducted background investigation, prior to being authorized access to any COUNTY facility. Any employee, who by right, declines to undergo a background investigation shall be deemed unacceptable to perform work under this contract, and shall not be allowed to work in any COUNTY facility.

- b. CONTRACTOR shall submit a complete background check package for each employee (including any Subcontractor) who will require access to COUNTY facilities.

The CONTRACTOR shall provide the following for each person requiring a background investigation:

- 1. A completed, District Attorney Authority to Release Personal Information form.
 - 2. Check in the amount of \$67.00 payable to the County of San Bernardino.
 - 3. Submit the complete package to the District Attorney located at 303 W. 3rd St. in San Bernardino.
 - 4. INCOMPLETE PACKAGES WILL NOT BE ACCEPTED.
- c. The cost of the background check is currently \$67.00, which includes the background check and a \$10.00 processing fee and is required by the Department of Justice. Fees are determined by the District Attorney's Office and the State of California and are subject to change at any time. CONTRACTOR will be responsible for any increase in fees.
 - d. Disqualifying information includes, but is not limited to, the following:
 - 1. Character / Moral Turpitude Violations
 - 2. Theft / Related Offenses
 - 3. Affiliation with Criminal Elements
 - 4. Felony Convictions
 - 5. Current (Pending) Criminal Cases
 - 6. Active Arrest Warrants
 - 7. CORI = Criminal Offender Record Information
 - 8. CLETS = California Law Enforcement Telecommunication Systems
 - 9. Any information that would prohibit CONTRACTOR/employee access to CLETS and/or CORI as outlined by the California Department of Justice.

The District Attorney shall be notified if there is any criminal activity during employment. Any disqualifying activity by employee of the CONTRACTOR shall deem that employee unacceptable and removed from employment. If the disqualifying activity is by the CONTRACTOR, The CONTRACTOR will be terminated from the contract.

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 County.

C.3 Contract Assignability

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

C.4 Contract Exclusivity

This is not an exclusive Contract. The County reserves the right to enter into a contract with other contractors for the same or similar services. The County 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 County; and (c) are not otherwise disqualified from performing the Services under applicable law. If requested by the County 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 County, Contractor shall provide the results of the background check of each individual to the County. 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 County's hiring criteria, in County's sole discretion, shall not be assigned to work on County property or Services, and County shall have the right, at its sole option, to refuse access to any Contract personnel to any County facility.

C.7 Change of Address

Contractor shall notify the County 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 County Policy

In performing the Services and while at any County facilities, Contractor personnel (including subcontractors) shall (a) conduct themselves in a businesslike manner; (b) comply with the policies, procedures, and rules of the County 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 County; and (d) abide by all laws applicable to the County 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, "County Policies"). County 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 County facility, electronic posting, or other means generally used by County to disseminate such information to its employees or contractors. Contractor shall be responsible for the promulgation and distribution of County Policies to Contractor personnel to the extent necessary and appropriate.

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

C.10 Confidentiality

Contractor shall protect from unauthorized use or disclosure the names and other identifying information concerning persons receiving Services pursuant to this Contract, except for statistical information not identifying any participant. Contractor shall not use or disclose any identifying information for any purpose other than carrying out the Contractor's obligations under this Contract,

except as may otherwise be required by law. This provision will remain in force even after the termination of the Contract.

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 County inquiries within two (2) business days. Contractor shall not change the primary contact without written acknowledgement to the County. Contractor will also designate a back-up point of contact in the event the primary contact is not available.

C.12 County Representative

The Director of Project & Facilities Management or his/her designee shall represent the County 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 Board of Supervisors, then the Board of Supervisors must approve all amendments to this Contract, unless otherwise delegated.

C.13 Damage to County Property

Contractor shall repair, or cause to be repaired, at its own cost, all damages to County 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 County may make any necessary repairs. The Contractor, as determined by the County, shall repay all costs incurred by the County for such repairs, by cash payment upon demand, or County may deduct such costs from any amounts due to the Contractor from the County, as determined at the County'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 County, on County property, or while using County 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 County on County property, or using County equipment, of the County'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 County.

The County may terminate for default or breach of this Contract and any other Contract the Contractor has with the County, if the Contractor or Contractor's employees are determined by the County 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 County 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 County Policy 11-08, the County 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 County 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 County whenever practicable.

To assist the county in meeting the reporting requirements of the California Integrated Waste Management Act of 1989 (AB 939), Contractor must be able to annually report the County'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 County, utilizing a County approved form.

C.19 Improper Influence

Contractor shall make all reasonable efforts to ensure that no County officer or employee, whose position in the County 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 County in an attempt to secure favorable treatment regarding this Contract.

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

C.21 Informal Dispute Resolution

In the event the County 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, County, 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 County 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 County determines that Contractor has made a material misstatement or misrepresentation or that materially inaccurate information has been provided to the County, this Contract may be immediately terminated. If this Contract is terminated according to this provision, the County 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 County 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 County upon payment for services (and products, if applicable). All such items shall be delivered to County at the completion of work under the Contract. Unless otherwise directed by County, Contractor may retain copies of such items.

C.29 Participation Clause

The County desires that Municipalities, School Districts, and other Tax Districts within the San Bernardino County requiring the same services provided herein may at their option and through the County 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 County 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 County may be made or used without prior written approval of the County.

C.34 Representation of the County

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.

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 County's written consent, which County 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 County. At County'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 County, resumes of proposed subcontractor personnel. Contractor shall remain directly responsible to County for its subcontractors and shall indemnify County 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 County's reporting formats and procedures as specified by County.
- 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, County 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 County.

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 County, 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 County 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 County.

C.38 Termination for Convenience

The County 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 County 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, 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 County. 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 County determines a conflict of interest situation exists, any increase in costs, associated with the conflict of interest situation, may be disallowed by the County 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 County Administrative Officials

Contractor agrees to provide, or has already provided information on former San Bernardino County administrative officials (as defined below) who are employed by or represent Contractor. The information provided includes a list of former County administrative officials who terminated County 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, "County administrative official" is defined as a member of the Board of Supervisors or such officer's staff, County Executive Officer or member of such officer's staff, County 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 County 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 County 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 County. "Key employees" do not include clerical personnel providing service at the firm's offices or locations.

C.44 Copyright

County 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 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 County. 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 County prior to publication. To the extent this Contract is federally funded, Contractor shall provide any information necessary to the County in order to comply with Federal Acquisition Regulation 52.227-15. To the extent applicable, the provisions of Federal Acquisition Regulation 52.227-14 Rights in Data - General shall apply.

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 County. These items must be returned to the County within ten (10) days, upon written notification to the Contractor. In the event of a failure to return the documents, the County 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 County, 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 D, 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 D. The applicable general prevailing wage determinations are on file with the County 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 Reserved

C.49 Reserved

C.50 Reserved

C.51 Reserved

C.52 Reserved

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 County 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 as of July 1, 2026 and expires June 30, 2031 but may be terminated earlier in accordance with provisions of this Contract.

E. COUNTY RESPONSIBILITIES

- E.1 The County shall supply to Contractor light, electrical power, and water.
- E.2 The County will not be responsible for Contractor's supplies, equipment, material, or personal belongings that may be damaged, lost, or stolen.
- E.3 The County's right of rejection includes approval or rejection of any servicing methods, material, supplies, and/or equipment to be used by Contractor, as well as approval or disapproval of all personnel.
- E.4 A quarterly inspection will be held at each site with the Facilities Management Division Building Superintendent, or his/her designee, and the CONTRACTOR'S representative. The work schedules and tasks from the previous quarter will be critiqued and expectations for the new quarter will be addressed.

F. FISCAL PROVISIONS

- F.1 The maximum amount of payment under this Contract shall not exceed \$2,143,560 (\$1,393,560 for routine maintenance plus a not-to-exceed amount of \$750,000 for unforeseen repair services) and shall be subject to availability of other funds to the County. The consideration to be paid to Contractor, as provided herein, shall be in full payment for all of Contractor's services and expenses incurred in the performance hereof, including travel and per diem. **Contractor acknowledges the Non-routine/Unforeseen Repair Services are subject to pre-approval and a not-to-exceed amount, and there is no guarantee of a minimum amount of work that will be assigned to Contractor.** Contractor further acknowledges that non-routine/unforeseen repairs are subject to the requirements of the California Public Contract Code, and individual projects and/or work orders shall not exceed \$75,000. Projects may not be split or divided into small projects in order to avoid the \$75,000 limit. Contractor will only be compensated for work performed following receipt of written or email authorization, from the Project and Facilities Management Department, approving the work and the estimate provided by Contractor. Contractor shall include the written or email authorization with any related invoice Contractor submits for work performed.
- F.2 **Reserved**
- F.3 Contractor shall accept all payments from County 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 County required to process EFT payments.
- F.4 County 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 County shall only pay for any State or local sales or use taxes on the services rendered or equipment and/or parts supplied to the County pursuant to the Contract.
- F.5 Costs for services under the terms of this Contract shall be incurred during the contract period except as approved by County. Contractor shall not use current year funds to pay prior or future year obligations.
- F.6 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 County for, or apply sums received from County 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 County.

- F.7** Contractor shall adhere to the County's Travel Management Policy (8-02 and 08-02SP1) when travel is pursuant to this Contract and for which reimbursement is sought from the County. In addition, Contractor is encouraged to utilize local transportation services, including but not limited to, the Ontario International Airport.

G. INDEMNIFICATION AND INSURANCE REQUIREMENTS

G.1 Indemnification

The Contractor agrees to indemnify, defend (with counsel reasonably approved by County) and hold harmless the County and its authorized officers, employees, agents and volunteers 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 County 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 indemnities. The Contractor indemnification obligation applies to the County's "active" as well as "passive" negligence but does not apply to the County's "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 County 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 County to vicarious liability but shall allow coverage for the County 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 County, 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 County.

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 County.

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 County or between the County and any other insured or additional insured under the policy.

G.6 Proof of Coverage

The Contractor shall furnish Certificates of Insurance to the County 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 County 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 County will be promptly reimbursed by the Contractor or County payments to the Contractor will be reduced to pay for County purchased insurance.

G.10 Insurance Review

Insurance requirements are subject to periodic review by the County. 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 County. 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 County, inflation, or any other item reasonably related to the County'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 County 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 County.

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 County 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 County’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 **Reserved**

G.11.6 **Reserved**

G.11.7 **Reserved**

G.11.8 **Reserved**

G.12 **Bonds**

For all individual repair projects over \$25,000, Contractor will be required to file a payment bond with and approved by the Director of the Project and Facilities Management Department (Director), or the Director's designee, in accordance with Civil Code section 9550, in a penal sum equal to one hundred percent (100%) of the contract price on an individual project. Additionally, Contractor will be required to file a performance bond with and approved by the Director, or the

Director's designee, for the faithful performance of the Contract in a penal sum equal to one hundred percent (100%) of the contract price on an individual project.

The Bonds must comply with all requirements set forth in section G.12 of this Contract, be on County approved bond forms (see Attachment E) and be secured from a surety company satisfactory to the County within ten (10) calendar days of the County's request. The Bonds shall remain in full force and effect until the individual project is complete and for a period of one year following completion or termination of the individual project. The Performance Bond shall name the County as beneficiary under the bond. At no time shall Contractor fail to have the Bonds in place.

Contractor's failure to either furnish the Bonds or provide proof of the same shall constitute a breach of this Contract, and the County, in its sole discretion, may immediately suspend or terminate the Contract.

G.12.1 Bond Requirements

G.12.1.1

The bonds shall be executed by a California admitted surety with an A.M. Best's Company rating satisfactory to the County. If an A.M. Best's rating is not available, the proposed surety must meet comparable standards of another rating service satisfactory to County. Bonds issued by a California admitted surety listed in the latest versions of the U.S. Department of Treasury Circular 570 shall be deemed to be accepted unless specifically rejected by County. Bonds from a California admitted surety not listed in Treasury Circular 570 must be accompanied by all of the documents enumerated in California Code of Civil Procedure Section 995.660(a). All bonds must comply with the Bond and Undertaking Law (Code of Civil Procedure Section 995.010 et. seq.).

G.12.1.2

All such bonds shall be accompanied by a power of attorney from the surety company authorizing the person executing the bond to sign on behalf of the company. If the bonds are executed outside the State of California, all copies of the bonds must be countersigned by a California representative of the surety. The signature of the person executing the bond shall be acknowledged by a Notary Public as the signature of the person designated in the power of attorney.

G.12.1.3

If, during the continuance of the Contract, any of the sureties, in the opinion of the County, are or become non-responsible or otherwise unacceptable to County, County may require other new or additional sureties, which the Contractor shall furnish to the satisfaction of County within ten (10) days after notice, and in default thereof the Contract may be suspended or terminated, in the sole discretion of the County.

G.12.2

Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall permit a copy to be made.

H. RIGHT TO MONITOR AND AUDIT

H.1 The County, 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 County in the implementation, monitoring, and

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

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 County representatives for a period of three years after final payment under this Contract or until all pending County, 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, County 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 County; 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 County 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 County may proceed with the work in any manner deemed proper by the County. The cost to the County 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 facsimile, or deposited in the United States mail, postage prepaid, and addressed to the other party as follows:

Project & Facilities Management
200 South Lena Road
San Bernardino, CA 92415-0182

Bernel, Inc. dba VFS Fire & Security Services
501 W. Southern Ave.
Orange, CA 92865

Notice shall be deemed communicated two (2) County 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.

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

SAN BERNARDINO COUNTY

►

Dawn Rowe, Chair, Board of Supervisors

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 of Supervisors
of the San Bernardino County

By _____
Deputy

BERNEL, INC. dba VFS Fire & Security Services

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

By ► _____
(Authorized signature - sign in blue ink)

Name _____
(Print or type name of person signing contract)

Title _____
(Print or Type)

Dated: _____

Address _____

FOR COUNTY USE ONLY

Approved as to Legal Form

Kaleigh Ragon
Deputy County Counsel
Date _____

Reviewed for Contract Compliance

Date _____

Reviewed/Approved by Department

Jennifer Costa
Chief of Facilities Management
Date _____

ATTACHMENT A LOCATION COSTS

	CAF#	Building	Street	Annual Testing (5 yrs.)	Annual Monitoring (5 yrs.)	5-Year Testing (1 yr.)
1	APP014	Newton Bass Library	14901 Dale Evans Pkwy	\$ 1,730	\$ 780	\$ 795
2	APP017	HDJDC -High Desert	21101 Dale Evans Pkwy	\$ 7,585	N/A	\$ 2,760
3	APP026	Victor Valley Museum	11873 Apple Valley Rd	\$ 1,670	\$ 780	\$ 690
4	BAR001	Barstow Sheriff/Jail	225 E Mountain View	\$ 1,650	\$ 780	n/a
5	BAR043	Barstow Probation	1300 E Mountain View	\$ 1,150	\$ 780	\$ 695
6	BAR044	Barstow Head Start	1121 W Main St	\$ 1,670	\$ 780	\$ 755
7	BGL003	Big Bear Sheriff	477 Summit Blvd	\$ 3,220	\$ 780	\$ 1,380
8	COL010	Shr-NARCO	1020 Cooley	\$ 1,165	\$ 780	n/a
9	COL011	Shr-SED	1040 Cooley	\$ 995	\$ 780	n/a
10	COL012	Shr-SED	1060 Cooley	n/a	n/a	n/a
11	COL013	Cooley Bldg	851 Cooley Rd	\$ 5,965	\$ 780	\$ 3,120
12	CRS043	Crestline Library	24105 Lake Gregory	\$ 2,185	\$ 780	\$ 755
13	DEV001	Animal Shelter	19777 Cajon Blvd.	\$ 460	\$ 780	n/a
14	FON011	Fontana Probation	17830 Arrow Blvd	\$ 690	\$ 780	n/a
15	FON057	Wellspring CRT	15217 San Bernardino	\$ 1,760	\$ 780	\$ 755
16	FON058	Merrill CSU	14677 Merrill Ave	\$ 1,760	\$ 780	\$ 755
17	HES023	High Desert Govt Cntr	15900 Smoke Tree St	\$ 2,970	\$ 780	\$ 1,245
18	JOS001	JT Courthouse	6527 White Feather Rd	\$ 2,555	\$ 780	\$ 840
19	JOS022	Bob Burke Govt Cntr	63665 Twentynine Palms	\$ 2,780	\$ 780	\$ 1,120
20	JOS025	Morongo CRT	60805 29 Palms Hwy	\$ 1,760	\$ 780	\$ 755
21	MEN003	Mentone Library	1331 Opal Ave	\$ 1,900	\$ 780	\$ 690
22	MUS001	Baker Learning	2818 N Macy St	\$ 1,900	\$ 780	\$ 755
23	ONT004/5	Ontario Maple Pre	555 W Maple	\$ 1,335	\$ 780	\$ 755
24	PHE028	Phelan Library	9800 Clovis Rd	\$ 1,670	\$ 780	\$ 690
25	RAN001	Foothill Law & Justice	8303 Haven Ave	\$ 11,950	\$ 780	\$ 2,250
26	RAN007	Rancho Probation	9478 Etiwanda Ave	\$ 7,220	\$ 780	\$ 2,070
27	RAN033	County Bldg	8575 Haven Ave	\$ 1,900	\$ 780	\$ 920
28	RAN050	Pre School Services	8163 Rochester Ave	\$ 3,905	\$ 780	\$ 2,820
29	RED002	Pre School Services	222 Brookside Ave	\$ 460	\$ 780	n/a
30	RED003	County Museum	2024 Orange Treen Ln	\$ 2,615	\$ 780	\$ 920
31	RED009	Exploration Station	2024 Orange Treen Ln	\$ 1,670	\$ 780	\$ 690
32	RIA004	Con Fire, ODS, Dispatch, 800	1743 Miro Way	\$ 1,080	\$ 780	n/a
33	RIA014	800 MHz Shelter	1771 Miro Way	\$ 920	\$ 780	n/a
34	SAB001	New Hall of Records	222 W Hospitality	\$ 7,060	\$ 780	\$ 1,680
35	SAB003	Facilities Management	200 S Lena Rd	\$ 1,900	\$ 780	\$ 755
36	SAB004	Crime Lab/SID	200 S Lena Rd	\$ 2,130	\$ 780	\$ 755
37	SAB004A	Crime Lab Expansion	711 E Rialto Ave	\$ 2,365	\$ 780	\$ 755

	CAF#	Building	Street	Annual Testing (5 yrs.)	Annual Monitoring (5 yrs.)	5-Year Testing (1 yr.)
38	SAB005	Coroner	175 S Lena Rd	\$ 1,670	\$ 780	\$ 690
39	SAB006	General Services Bldg.	777 E Rialto Ave	\$ 6,860	\$ 780	\$ 2,160
40	SAB008	Public Works	825 E 3rd St	\$ 1,840	\$ 780	n/a
41	SAB009	Fleet Management	210 N Lena Rd	\$ 1,290	N/A	\$ 995
42	SAB019	Sheriff HDQRTS	655 E 3rd St	\$ 2,130	\$ 780	\$ 755
43	SAB027	Public Health	351 N Mountain View	\$ 690	\$ 780	n/a
44	SAB031	Government Cntr.	385 N Arrowhead Ave	\$ 7,280	\$ 780	\$ 1,680
45	SAB033	Prob Day Report	104 W 4th St	\$ 2,430	\$ 780	\$ 840
46	SAB035	Civic Center Building	157-175 W 5th St	\$ 3,795	\$ 780	\$ 1,080
47	SAB039	ISD Main Ofc	670 E Gilbert St	\$ 1,680	\$ 780	n/a
48	SAB043	RYEF	740 E Gilbert St	\$ 2,400	\$ 780	\$ 755
49	SAB050	Children's Assmt. Cntr.	700 E Gilbert St	\$ 460	\$ 780	n/a
50	SAB060	Teddy Bear Tymes	900 E Gilbert St	\$ 460	\$ 780	n/a
51	SAB069	TAY Cntr.	780 E Gilbert St	\$ 2,845	\$ 780	\$ 755
52	SAB088	Juv Delq Ct	900 E Gilbert St	\$ 460	\$ 780	\$ n/a
53	SAB089	Youth Justice Cntr.	900 E Gilbert St	\$ 460	\$ 780	\$ n/a
54	SAB149	Autism Cntr.	1499 S Tippecanoe Ave	\$ 1,325	\$ 780	\$ 460
55	SAB150	Phoenix Clinic	820 E Gilbert St	\$ 1,940	\$ 780	\$ 755
56	SAB156	303 Bldg.	303 W 3rd St	\$ 8,925	\$ 780	\$ 2,020
57	SAB170	Central Juv Hall	900 E Gilbert St	\$ 6,860	\$ 780	\$ 1,895
58	SAB180	Auditor Controller	268 W Hospitality	\$ 7,885	\$ 780	\$ 2,800
59	SAB188	Pre School Dept.	4280 N Hallmark Pkwy	\$ 1,095	\$ 780	\$ 755
60	SAB190	Probation	150 W 5th St	\$ 1,670	\$ 780	\$ 755
61	SAB191	Casa Paseo CRT	720 E Gilbert St	\$ 2,040	\$ 780	\$ 755
62	SAB192	Public Defender	323 Court St	\$ 3,905	\$ 780	\$ 2,820
63	SAB206	ISD Warehouse	680 E Gilbert St	\$ 1,665	\$ 780	\$ 755
64	SAB207	Windsor CSU	1481 N Windsor Dr	\$ 1,560	\$ 780	\$ 755
65	SAB218	Mill PSD	205 Allen St	\$ 3,095	\$ 780	\$ 755
66	SAB220	County Building	412 W. Hospitality Lane	\$ 1,970	\$ 780	\$ 1,030
67	SAB221	County Building	303 W 5th St	\$ 1,455	\$ 780	\$ 795
68	SAB222	Public Health	451 Vanderbilt	\$ 3,235	\$ 780	\$ 1,755
69	SAB223	Valley	153 S. Lena Rd	\$ 7,095	\$ 780	\$ 2,820
70	SAB	Pacific Village	2626 Pacific St.	\$ 605	\$ 780	n/a
71	TWI001	Twin Peaks Ct Hse	26010 SH-189	\$ 1,900	\$ 780	\$ 920
72	VIC001	Victorville Ct Hse	14455 Civic Dr	\$ 2,385	\$ 780	\$ 1,380
73	VIC039	Victorville DA	15371 Civic Dr	\$ 2,130	\$ 780	\$ 875
74	VIC042	HD Fleet	15000 Tokay	\$ 1,615	\$ 780	\$ 795
75	VIC044	VV DA	14440 Civic Dr	\$ 1,770	\$ 780	\$ 950
76	VIC043	Desert Hill CRT	16552 Sunhill Dr	\$ 1,540	\$ 780	\$ 755

	CAFM #	Building	Street	Annual Testing (5 yrs.)	Annual Monitoring (5 yrs.)	5-Year Testing (1 yr.)
77	VIC046	St John of God	13333 Palmdale Rd	\$ 275	\$ 780	n/a
78	VIC056	VV Probation	15480 Ramona Ave	\$ 3,145	\$ 780	\$ 995
79	WRI502	Wrightwood Library	6011 Pine Dr	\$ 460	\$ 780	n/a
80	YVL007	Yucca Valley Pre	56389 Pima Trail	\$ 460	\$ 780	n/a
			Totals	\$ 204,455	\$ 60,060	\$ 70,985

Labor Rates

Normal Business Hours:

Monday-Friday 7:00 am - 3:30 pm

Service Rate: \$185/hr., \$130 Truck Charge and 4 hours minimum

Overtime Hours:

Monday-Friday 3:30 pm - 7:00 am

Saturday-Sunday 7:00 am – 3:30 pm

Service Rate: \$275/hr., \$130 Truck Charge and 4 hours minimum

Double Time Hours:

Saturday-Sunday 3:30 pm – 7:00 am, and all VFS Published Holidays

Service Rate: \$370/hr., \$130 Truck Charge and 4 hours minimum

ATTACHMENT B
VFS Fire & Security's Fire Alarm Monitoring, Testing/Inspection and Service Agreement

VFS FIRE & SECURITY
501 W. Southern Avenue
Orange, CA 92865
(714) 778-6070

FIRE ALARM MONITORING, TESTING/INSPECTION AND SERVICE AGREEMENT

Subscriber's Name: San Bernardino County Telephone: _____

Address: This contract includes 80 Locations Email: _____ Cell Phone: _____

SALE AND INSTALLATION

ALL FIRE ALARM EQUIPMENT IS ON LOCATION AND OWNED BY SUBSCRIBER. THIS CONTRACT IS FOR MONITORING, TESTING/INSPECTION AND REPAIR SERVICE. THIS AGREEMENT SHALL BE INCORPORATED INTO AND BECOME PART OF SAN BERNARDINO COUNTY'S STANDARD AGREEMENT AS ATTACHMENT B.

NOTICE: Unless a Fire Alarm System to Code is selected to be installed, VFS makes no representation that the fire alarm detection equipment meets local code, fire department or any Authority Having Jurisdiction [AHJ] requirements, and it is not VFS' responsibility to apply for any permits or fees in connection with such equipment. The law requires and VFS recommends that Subscriber install a Fire Alarm System to code with plans and specifications filed with AHJ, properly permitted, inspected and approved by AHJ. Subscriber represents that existing fire alarm system is approved by AHJ and that any repairs or replacement parts installed by VFS are not additional equipment which would require AHJ approval.

- 1. MONITORING CHARGES:** Subscriber agrees to pay annual monitoring costs to VFS as set forth in Attachment A to San Bernardino County's Standard Agreement, plus tax IF ANY, payable as stated in Section F of the San Bernardino County's Standard Agreement between VFS and San Bernardino County, for the monitoring of the FIRE ALARM system for the term of this agreement.
- 2. SERVICE CHARGES:** Subscriber agrees to pay VFS on a per call basis for service charges at the agreed upon hourly rates set forth in Attachment A to San Bernardino County's Standard Agreement. Subscriber agrees to pay VFS for all parts and labor. Billing and payment shall be as stated in Section F of San Bernardino County's Standard Agreement between VFS and San Bernardino County.
- 3. INSPECTIONS AND TESTING:** Subscriber agrees to pay annual inspection/testing costs to VFS at the agreed upon price per facility as set forth in Attachment A to San Bernardino County's Standard Agreement. Billing and payment shall be as stated in Section F of San Bernardino County's Standard Agreement. For Sprinkler Systems, VFS shall perform quarterly visual inspections and annual testing. For Fire Alarms, VFS shall perform both visual inspections and annual testing on an annual basis. Any additional inspections will be charged at \$165.00 per hour which Subscriber agrees to pay. VFS will notify Subscriber 15 days in advance of inspection date, and it is Subscriber's responsibility to reschedule or permit access. Testing at inspection insures only that accessible components are in proper working order at time of inspection unless otherwise reported to Subscriber at time of inspection. Inspection does not include repair. If sprinkler alarm or other device monitoring water flow is inspected, the inspection does not include inspection or testing of sufficiency of water supply, for which VFS has no responsibility or liability.
- 4. RESERVED.**
- 5. RESERVED.**
- 6. MONITORING SERVICES PROVIDED:** Upon receipt of a fire alarm signal from Subscriber's fire alarm system, VFS or its designee central station shall make every reasonable effort to notify Subscriber and the appropriate

municipal fire department and comply with AHJ dispatch procedures. Only Subscriber will be notified of fire trouble, fire supervisory or other off normal signals as soon as may be practical. Subscriber acknowledges that signals transmitted from Subscriber's premises directly to fire departments are not monitored by personnel of VFS or its Central station and VFS does not assume any responsibility for the manner in which such signals are monitored or the response, if any, to such signals. Subscriber acknowledges that signals which are transmitted over telephone lines, wire, air waves, internet, Managed Facilities Voice Networks, VOiP, or other modes of communication pass through communication networks wholly beyond the control of VFS and are not maintained by VFS except VFS may own the radio network and VFS shall not be responsible for any failure which prevents transmission signals or data from reaching the Central station or damages arising therefrom, or for data corruption, theft or viruses to Subscriber's computers if connected to the communication equipment. The fire alarm system and communication pathway may not function during a power failure or not maintain functionality for a 24hour period as required by NFPA-72 for fire alarm systems and Subscriber is responsible for verifying operation of the communication pathway with the communications pathway provider. Subscriber agrees to furnish VFS with a written Call List of names and telephone numbers of persons Subscriber wishes to receive notification of fire alarm signals. Unless otherwise provided in the Call List VFS will make a reasonable effort to contact the first person reached or notified on the list either via telephone call, text or email message. No more than one call to the list shall be required and any form of notification provided for herein, including leaving a message on an answering machine, shall be deemed reasonable compliance with VFS' notification obligation. All changes and revisions to the account information shall be supplied to VFS in writing. Subscriber authorizes VFS to access the control panel and/or communicator to input or delete data and programming. If Subscriber requests VFS to reprogram system functions, remotely or on premises, Subscriber shall pay VFS for each such service, and any change in programming requires a full physical test of all fire alarm components pursuant to NFPA 72 and AHJ requirements which testing shall be at Subscriber's expense at VFS' customary charges. VFS may, without prior notice, suspend or terminate its services in event of Subscriber's default in performance of this agreement or in event Central station's facility or communication network is non-operational or Subscriber's system is sending excessive false alarms. Central Station is authorized to record and maintain all data, voice and alarm communications and shall be the exclusive owner of such property.

7. TERM OF AGREEMENT: RENEWALS: The term of this agreement shall be for a period of five years.

8. RESERVED.

9. ALARM EQUIPMENT REMAINS PERSONAL PROPERTY: All equipment and material shall BE DEEMED personal property and shall not be considered or deemed a fixture, or an addition to, alteration, conversion, improvement, modernization, remodeling, repair or replacement of any part of the realty, and Subscriber shall not permit the attachment thereto of any apparatus not furnished by VFS.

PROPOSITION 65 WARNING: Equipment and packaging may contain components containing chemicals known to The State of California to cause cancer, birth defects or other reproductive harm.

10. EQUIPMENT LIMITED WARRANTY: In the event that any part of the equipment becomes defective, VFS agrees to make all repairs and replacement of parts without costs to the Subscriber for a period of one year from the date of installation. VFS reserves the option to either replace or repair the equipment and reserves the right to substitute materials of equal quality at time of replacement, or to use reconditioned parts in fulfillment of this warranty. VFS' warranty does not include damage caused by electric, plumbing or construction, nor damage by lightning, electrical surge, or misuse. VFS is not the manufacturer of the equipment and other than VFS' limited warranty Subscriber agrees to look exclusively to the manufacturer of the equipment for repairs under its warranty coverage if any. Except as set forth in this agreement, VFS makes no express warranties as to any matter whatsoever, including, without limitation, the condition of the equipment, its merchantability, or its fitness for any particular purpose. VFS does not represent nor warrant that the equipment may not be compromised or circumvented, or that the system will prevent any loss by fire, smoke or water or otherwise; or that the system will in all cases provide the protection for which it is installed. VFS expressly disclaims any implied warranties, including implied warranties of merchantability or fitness for a particular purpose. The warranty does not cover any damage to material or equipment caused by accident, misuse, attempted or unauthorized repair service, modification, or improper installation by anyone other than VFS. VFS shall not be liable for consequential damages. Subscriber acknowledges that any affirmation of fact or promise made by VFS shall not be deemed to create an express warranty unless included in this agreement in writing; that Subscriber is not relying on VFS' skill or judgment in selecting or furnishing a system suitable for any particular purpose and that there are no warranties which extend beyond those on the face of this agreement, and that VFS has offered additional and more sophisticated equipment for an additional charge which Subscriber has declined.

Subscriber's exclusive remedy for VFS' breach of this agreement or negligence to any degree under this agreement is to require VFS to repair or replace, at VFS' option, any equipment which is non-operational. Some states do not allow the exclusion or limitation of consequential or incidental damages, or a limitation on the duration of implied warranties, so the above limitations or exclusions may not apply to you. The warranty gives you specific legal rights and you may also have other rights which may vary from state to state. Fire Alarms are required to be approved by AHJ and may require plans and specifications designed, signed and submitted by a licensed architect or professional engineer, which must be engaged by Subscriber. If VFS is installing a Fire Alarm System to code installation must be approved by the AHJ.

11. DELAY IN DELIVERY/ INSTALLATION/ RISK OF LOSS OF MATERIAL: VFS shall not be liable for any damage or loss sustained by Subscriber as a result of delay in delivery and/or installation of equipment, equipment failure, or for interruption of service due to electric failure, strikes, walk-outs, war, acts of God, or other causes, including VFS' negligence or failure to perform any obligation. This exclusion of liability shall not apply to VFS' sole negligence or willful misconduct within the meaning of California Civil Code section 2782. The estimated date work is to be substantially completed is not a definite completion date and time is not of the essence. In the event the work is delayed through no fault of VFS, Subscriber assumes all risk of loss of material once delivered to the job site. VFS is authorized to make preparations such as drilling holes, driving nails, making attachments or doing any other thing necessary in VFS' sole discretion for the installation and service of the equipment, and VFS shall not be responsible for any condition created thereby as a result of such installation, service, or removal of the equipment, and Subscriber represents that the owner of the premises, if other than Subscriber, authorizes the installation of the equipment under the terms of this agreement.

12. REPAIR SERVICE: The parties agree that the equipment, once installed, is in the exclusive possession and control of the Subscriber, and it is Subscriber's sole responsibility to notify VFS if any equipment is in need of repair. VFS shall not be required to service the equipment unless it has received notice from Subscriber, and upon such notice, VFS shall, during the warranty period or as has been contracted for under Section B of the San Bernardino County Standard Agreement, service the equipment to the best of its ability within 24 hours of notice, pursuant to the Labor Rates (Normal Business Hours, Overtime Hours and Double Time Hours) set forth in Attachment A to the San Bernardino County Standard Agreement. VFS shall respond to requests for emergency repair services within four (4) hours.

13. SUBSCRIBER'S DUTY TO SUPPLY ELECTRIC AND TELEPHONE SERVICE: Subscriber agrees to furnish, at Subscriber's expense, all 110 Volt AC power, electrical outlet, ARC Type circuit breaker and dedicated receptacle, internet connection, high speed broadband cable or DSL and IP Address, telephone hook-ups, RJ31x Block or equivalent, as deemed necessary by VFS.

14. SUBSCRIBER RESPONSIBLE FOR FALSE ALARMS/ PERMIT FEES/ NON-SOLICITATION/ ADDITIONAL COSTS / OTHER LICENSED TRADES / CO AND ECB VIOLATIONS: Subscriber is responsible for all alarm permits and permit fees, agrees to file for and maintain any permits required by applicable law and AHJ and indemnify or reimburse VFS for any fines relating to permits, code compliance or false alarms. VFS shall have no liability for permit fees, false alarms, false alarm fines, fire response, any damage to personal or real property or personal injury caused by fire department response to alarm, whether false alarm or otherwise, or the refusal of the fire department to respond. In the event of termination of fire response by the fire department this agreement shall nevertheless remain in full force and Subscriber shall remain liable for all payments provided for herein. Should VFS be required by existing or hereafter enacted law to perform any service or furnish any material not specifically covered by the terms of this agreement Subscriber agrees to pay VFS for such service or material. Subscriber agrees that it will not solicit for employment for itself, or any other entity, or employ, in any capacity any employee of VFS assigned by VFS to perform any service for or on behalf of Subscriber for a period of two years after VFS has completed providing service to Subscriber. In the event of Subscriber's violation of this provision, in addition to injunctive relief, VFS shall recover from Subscriber an amount equal to such employee's salary based upon the average three months preceding employee's termination of employment with VFS, times twelve, together with VFS' counsel and expert witness fees. Subscriber is responsible for engaging licensed trades to perform any work which VFS is not licensed to perform interconnecting the fire alarm to HVAC, elevators, appliances and other electronic and mechanical systems. It is Subscriber's responsibility to obtain a Certificate of Occupancy for the intended use of the premises affected by the fire alarm or obtain a Letter of No Objection from the AHJ if a Certificate of Occupancy is not available. It is Subscriber's sole responsibility to cure any building or Environmental Control Board violations.

15. SUBROGATION / ASSIGNMENTS: Parties agree that there are no third-party beneficiaries of this agreement. Subscriber on its behalf and any insurance carrier waives any right of subrogation Subscriber's insurance carrier may

otherwise have against VFS or VFS' subcontractors arising out of this agreement or the relation of the parties hereto. Subscriber shall not be permitted to assign this agreement without written consent of VFS. VFS shall have the right to assign this agreement, due to operation of law, corporate reorganization, consolidation, merger, or sale of all of its assets, provided that advance notice is given to Subscriber, and shall be relieved of any obligations created herein upon such assignment.

16. EXCULPATORY CLAUSE: VFS and Subscriber agree that VFS is not an insurer and no insurance coverage is offered herein. The fire alarm and VFS' services are designed to detect and reduce certain risks of loss, though VFS does not guarantee that no loss or damage will occur. VFS is not assuming liability, and, therefore, shall not be liable to Subscriber or any other third party for any loss, economic or non-economic, in contract or tort, data corruption or inability to retrieve data, personal injury or property damage sustained by Subscriber as a result of equipment failure, human error, fire, smoke, water or any other cause whatsoever, regardless of whether or not such loss or damage was caused by or contributed to by VFS' negligent performance to any degree in furtherance of this agreement, any extra contractual or legal duty, strict products liability, or negligent failure to perform any obligation pursuant to this agreement or any other legal duty. This exculpatory clause shall not apply to VFS' sole negligence or willful misconduct within the meaning of California Civil Code section 2782. In the event of any loss or injury to any person or property, Subscriber agrees to look exclusively to Subscriber's insurer to recover damages. Subscriber releases VFS from any claims for contribution, indemnity or subrogation. NOTWITHSTANDING THE FOREGOING, VFS AGREES THAT IT WILL BE LIABLE FOR PERSONAL OR PROPERTY DAMAGE CAUSED BY THE NEGLIGENCE OF ITS EMPLOYEES WHILE ACTUALLY WORKING ON SUBSCRIBER'S PREMISES TO THE EXTENT OF VFS'S LIABILITY INSURANCE COVERAGE, THOUGH THE PARTIES AGREE THAT THIS SHALL NOT INCLUDE ANY DAMAGE CAUSED OR CONTRIBUTED TO BY THE FAILURE OF THE ALARM EQUIPMENT OR ALARM SERVICES. VFS AGREES TO CARRY THE MINIMUM INSURANCE REQUIRED BY SUBSCRIBER IN SECTION G OF SAN BERNARDINO COUNTY'S STANDARD AGREEMENT BETWEEN VFS AND THE SAN BERNARDINO COUNTY.

17. INSURANCE/ ALLOCATION OF RISK: Subscriber shall SELF INSURE OR maintain a policy of public liability, casualty, fire, theft, and property damage under which Subscriber is named as insured and which shall cover any loss or damage VFS' services are intended to detect to one hundred percent of the insurable value or potential risk. The parties intend that the Subscriber assume all potential risk and damage that may arise by reason of failure of the equipment, system or VFS' services. VFS shall not be responsible for any portion of any loss or damage which is recovered or recoverable by Subscriber from insurance covering such loss or damage or for such loss or damage against which Subscriber is indemnified or insured. Subscriber and all those claiming rights under Subscriber waive all rights against VFS and its subcontractors for loss or damages caused by perils intended to be detected by VFS' services or covered by insurance to be obtained by Subscriber, except such rights as Subscriber or others may have to the proceeds of insurance. NOTWITHSTANDING THE FOREGOING, VFS AGREES THAT IT WILL BE LIABLE FOR PERSONAL OR PROPERTY DAMAGE CAUSED BY THE NEGLIGENCE OF ITS EMPLOYEES WHILE ACTUALLY WORKING ON SUBSCRIBER'S PREMISES TO THE EXTENT OF VFS'S LIABILITY INSURANCE COVERAGE, THOUGH THE PARTIES AGREE THAT THIS SHALL NOT INCLUDE ANY DAMAGE CAUSED OR CONTRIBUTED TO BY THE FAILURE OF THE ALARM EQUIPMENT OR ALARM SERVICES. VFS AGREES TO CARRY THE MINIMUM INSURANCE REQUIRED BY SUBSCRIBER IN SECTION G OF SAN BERNARDINO COUNTY'S STANDARD AGREEMENT BETWEEN VFS AND SAN BERNARDINO COUNTY.

18. LIMITATION OF LIABILITY: Subscriber agrees that should there arise any liability on the part of VFS as a result of VFS' negligent performance to any degree or negligent failure to perform any of VFS' obligations pursuant to this agreement or any other legal duty, equipment failure, human error, or strict products liability, that VFS' liability shall be limited to the sum of \$150,000.00, whether economic or non-economic. The limitation of liability stated in this paragraph 18 shall not apply to VFS's indemnity obligations, gross negligence, willful misconduct and violations of law by VFS. If Subscriber wishes to increase VFS' amount of limitation of liability, Subscriber may, as a matter of right, at any time, by entering into a supplemental agreement, obtain a higher limit by paying an annual payment consonant with VFS' increased liability. This shall not be construed as insurance coverage. NOTWITHSTANDING THE FOREGOING, VFS AGREES THAT IT WILL BE LIABLE FOR PERSONAL OR PROPERTY DAMAGE CAUSED BY THE NEGLIGENCE OF ITS EMPLOYEES WHILE ACTUALLY WORKING ON SUBSCRIBER'S PREMISES TO THE EXTENT OF VFS'S LIABILITY INSURANCE COVERAGE, THOUGH THE PARTIES AGREE THAT THIS SHALL NOT INCLUDE ANY DAMAGE CAUSED OR CONTRIBUTED TO BY THE FAILURE OF THE ALARM EQUIPMENT OR ALARM SERVICES. VFS AGREES TO CARRY THE MINIMUM INSURANCE REQUIRED BY SUBSCRIBER IN SECTION G OF SAN BERNARDINO COUNTY'S STANDARD AGREEMENT BETWEEN VFS AND SAN BERNARDINO COUNTY.

19. LEGAL ACTION: With respect to the services rendered in connection with this agreement, all actions or proceedings against VFS must be based on the provisions of this agreement. Any other action that Subscriber may have or bring against VFS in respect to services rendered in connection with this agreement shall be deemed to have merged in and be restricted to the terms and conditions of this agreement. The terms of San Bernardino County's Standard Agreement between VFS and the San Bernardino County shall otherwise apply. The parties submit to the jurisdiction and laws of California and agree that any litigation or arbitration between the parties must be commenced and maintained in the County of San Bernardino.

20. VFS' RIGHT TO SUBCONTRACT SPECIAL SERVICES: Subscriber agrees that VFS is authorized and permitted to subcontract any services to be provided by VFS to third parties who may be independent of VFS, and that VFS shall not be liable for any loss or damage sustained by Subscriber by reason of fire or any other cause whatsoever caused by the negligence of third parties and that Subscriber appoints VFS to act as Subscriber's agent with respect to such third parties, except that VFS shall not obligate Subscriber to make any payments to such third parties. Subscriber acknowledges that this agreement, and particularly those paragraphs relating to VFS' disclaimer of warranties, exemption from liability, even for its negligence (excluding sole negligence and willful misconduct within the meaning of California Civil Code section 2782) and limitation of liability, inure to the benefit of and are applicable to any assignees, subcontractors, manufacturers, vendors and central station of VFS.

21. MOLD, OBSTACLES AND HAZARDOUS CONDITIONS: Subscriber shall notify VFS in writing of any undisclosed, concealed or hidden conditions in any area where installation is planned, and Subscriber shall be responsible for removal of such conditions. In the event VFS discovers the presence of suspected asbestos or other hazardous material VFS shall stop all work immediately and notify Subscriber. It shall be Subscriber's sole obligation to remove such conditions from the premises, and if the work is delayed due to the discovery of suspected asbestos or other hazardous material or conditions then an extension of time to perform the work shall be allowed and Subscriber agrees to compensate VFS for any additional expenses caused by the delay. If VFS, in its sole discretion, determines that continuing the work poses a risk to VFS or its employees or agents, VFS may elect to terminate this agreement on 3-day notice to Subscriber and Subscriber shall compensate VFS for all services rendered and material provided to date of termination. VFS shall be entitled to remove all its equipment and uninstalled equipment and material from the job site. Under no circumstances shall VFS be liable to Subscriber for any damage caused by mold or hazardous conditions or remediation thereof.

22. FULL AGREEMENT / SEVERABILITY: This agreement along with the Schedule of Equipment and Services and San Bernardino County's Standard Agreement between VFS and the San Bernardino County constitutes the full understanding of the parties and may not be amended, modified or canceled, except in writing signed by both parties, except VFS' requirements regarding items of protection provided for in this agreement imposed by Authority Having Jurisdiction. Notwithstanding the preceding sentence, Subscriber shall be permitted to terminate the contract unilaterally as set forth in sections C.15, C.20, C.38 and I.2 of San Bernardino County's Standard Agreement between VFS and San Bernardino County. Subscriber acknowledges and represents that Subscriber has not relied on any representation, assertion, guarantee, warranty, collateral agreement or other assurance, except those set forth in this Agreement. Subscriber hereby waives all rights and remedies, at law or in equity, arising, or which may arise, as the result of Subscriber's reliance on such representation, assertion, guarantee, warranty, collateral agreement or other assurance. To the extent this agreement is inconsistent with any other document or agreement, whether executed prior to, concurrently with or subsequent to this agreement OR INCORPORATED IN THIS AGREEMENT the terms of this agreement shall govern. Should any provision of this agreement be deemed void, the remaining parts shall be enforceable.

ATTACHMENT C

NON-ROUTINE/UNFORESEEN REPAIRS SCOPE OF WORK

A. Services to be Provided on an As Needed (On-Call) Basis

Provide as-needed repairs to the locations/equipment identified in Attachment A according to the provisions set forth in this Contract. Applicable costs and labor rates are set forth in Attachment A.

Pursuant to this Contract, Contractor will provide fire-life safety unforeseen repair services to the County for public projects not exceeding \$75,000 as they are scheduled for performance. Provision of these services shall include, but is not limited to providing labor, tools, equipment, materials and supplies necessary to complete all the work in a timely manner that will meet the County's requirements. Contractor must provide all SAFETY DATA SHEETS (SDS) to the Facilities Management Grounds Services Chief for all products used by the CONTRACTOR.

B. Additional Requirements

- Contractor must be available 24 hours a day, 7 days a week.
- All work to be performed at prevailing wage rates.
- Must be registered with California State Department of Industrial Relations.
- Cost for individual projects must be less than \$75,000.
- Locations may or may not include, but are not limited to, the locations listed in Attachment A.

ATTACHMENT D

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 County 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 County, 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 County 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 County. 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 County 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 County or the Division of Labor Standards Enforcement. If the requested payroll records have not been previously provided to the County 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 County 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 County 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 County 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 County 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 E
PAYMENT BOND**

CONTRACT BOND

BOND NUMBER _____

PUBLIC WORK

EFFECTIVE DATE _____

**PAYMENT BOND
(LABOR AND MATERIALS)**

KNOW ALL PERSONS BY THESE PRESENTS: That we,

(Name of Principal)

_____, as Principal
(Principal's Address)

and _____
(Name of Surety)

(Surety's Address)

a corporation organized and existing under the laws of the State of _____, and authorized to transact surety business in the State of California, as Surety, are held and firmly bound unto San Bernardino County in the amount of _____ Dollars (\$_____), lawful money of the United States of America, for the payment whereof, well and truly to be made, we hereby bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS the Principal has entered into a contract dated _____, 20____, (the "Contract") with San Bernardino County to do and perform the following work:

Project Name:

Project #:

The work to be performed by Principal is more particularly set forth in the Contract for the Project (hereinafter referred to as "Contract"), the terms and conditions of which are expressly incorporated herein by reference.

WHEREAS, the Contract require Principal, before entering upon the performance of the work, to file a good and sufficient Payment Bond with San Bernardino County to secure the claims to which reference is made in Division 4, Part 6, Title 3, sections 9000 et seq. of the California Civil Code.

NOW THEREFORE, the condition of this obligation is such that if the hereby bounded Principal, his, her or its heirs, executors, administrators, successors or assigns or subcontractors shall fail to pay any of the persons named in California Civil Code section 9100, or amounts due under the California Unemployment Insurance Code with respect to work or labor performed under the Contract, or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of the Principal and subcontractors pursuant to section 13020 of the

California Unemployment Insurance Code with respect to the work and labor, that Surety will pay for the same, and also, in case suit is brought upon the bond, a reasonable attorney's fee, to be fixed by the court.

This bond shall inure to the benefit of any of the persons named in California Civil Code section 9100 so as to give a right of action to those persons or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void, otherwise it shall be and remain in full force and effect.

Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the work to be performed thereunder shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract or to the work to be performed thereunder.

This bond is deemed to have been entered into at San Bernardino, California.

IN WITNESS WHEREOF, the Principal and Surety have caused this bond to be executed this day _____ of _____, 20__, by its undersigned representative(s) pursuant to authority of its governing body.

(Seal)

Principal

(Have Signature(s) Notarized)

Name: _____

By: _____

Title: _____

Address: _____

Phone _____

(Seal)

Surety

(Have Signature(s) Notarized and Attach Power of Attorney)

Name: _____

By: _____

Title: _____

Address: _____

Phone _____