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SAN BERNARDINO COUNTY

Contract Number
19-825

SAP Number

ORIGINAL

Real Estate Services Department – Project Management Division

Department Contract Representative	Darlynn Wissert
Telephone Number	(909) 387-5000
Contractor	PUB Construction, Inc.
Contractor Representative	Chris Yi
Telephone Number	909-455-0187
Contract Term	1 Year
Original Contract Amount	$4,600,000
Amendment Amount	
Total Contract Amount	$4,600,000
Cost Center	

IT IS HEREBY AGREED AS FOLLOWS:

I. CONTRACT DOCUMENTS

The complete contract includes all of the Contract Documents, to wit:

A. Advertisement for Bids (Project No. GBJOC14 dated September 27, 2019.
B. Bidder's Proposal, dated October, 24 2019.
C. General Conditions for Job Order Contracts dated February 7, 2018.
D. Bid Documents entitled "General Building Job Order Contractor".
E. Technical Specifications dated August 2019
F. Construction Task Catalog dated August 2019
G. Job Order Contracting (JOC) System License and Fee Agreement
H. Individual Job Orders.
I. Certified copy of the record of action of the Board of Supervisors, County of San Bernardino, and meeting of December 17, 2019.

And they are included in their entirety as a part of this Contract by reference thereto. The Contract Documents are intended to be complementary. Work required by one of the above documents and not by others shall be performed as if required by all. Failure to comply with requirements of Contract Documents may result in disqualification under

future Requests for Prequalification for the County of San Bernardino Job Order Contract Program or award of a future San Bernardino County Job Order Contract.

II. CONTRACTOR RESPONSIBLITIES

A. In consideration of the payments and agreements set forth in this document, Contractor shall, at Contractor's cost and expense, perform all the Work and furnish all the materials in accordance with the Contract Documents, except those stated in the specifications to be furnished by the County, necessary to construct and complete in a good and workmanlike manner, to the satisfaction of County, the entire Work for the project titled "General Building Job Order Contract".

B. Contractor shall accept the Job Order Price Proposal, as identified in each individual Job Order, as full compensation for furnishing all materials and for performing all the Work contemplated and embraced in this Contract and each Detailed Scope of Work; also for all loss or damage arising out of the nature of the Work, or from the action of the elements, or from any unforeseen difficulties or obstructions which may arise or be encountered in the prosecution of the Work until its acceptance by the County, and for all risks of every description connected with the Work; and also for all expenses incurred by or in consequence of the suspension or discontinuance of Work and for well and faithfully completing the Work in accordance with the Contract Documents.

C. Contractor shall execute the Job Order Contracting (JOC) System License and Fee Agreement with The Gordian Group, Inc., dba The Mellon Group (Gordian) prior to the execution of this Contract with the County. Contractor shall comply with all terms of the JOC System License and Fee Agreement, including the payment of the license fee equal to one percent (1%) of the value of each Job Order, Purchase Order or other similar purchasing document issued to the Contractor by the County. In the event Contractor's JOC System License and Fee Agreement with Gordian is terminated, the County has the immediate right to terminate this Contract with Contractor, at County's sole discretion. In the event the County terminates the Contract under this provision, the County will owe Contractor only for work actually performed under an approved Job Order, even if the Minimum Contract Value of $25,000 has not been incurred by the County, and the County will not owe the County the Minimum Contract Value of $25,000.

III. CONTRACTOR GENERAL RESPONSIBILITIES

A. **Legality and Severability**
The parties actions under the Agreement 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 Agreement is terminated or held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall remain in full effect.

B. **Taxes**
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.

C. **Representation of the County**
In the performance of the Contract, Contractor, its agents and employees, shall act in an independent capacity and not as officers, employees, or agents of the County of San Bernardino.

D. **Contractor Primary Contact**
The Contractor will designate an individual to serve as the primary point of contact for the Contract. Contractor or designee must respond to County inquires within two (2) business days or as otherwise required under Contract Documents. Contractor shall not change the primary contact without written notification and acceptance of the County. Contractor will also designate a back-up point of contact in the event the primary contact is not available.

E. **Change of Address**
Contractor shall notify the County, in writing, of any change in mailing address and/or physical location within ten (10) calendar days of the change, and shall immediately notify County of changes in telephone or fax numbers.

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

G. **Contract Modifications**
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 the County. No oral understanding or agreement not incorporated herein shall be binding on any of the Parties hereto.

H. **Attorney 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 fees directly arising from a third-party legal action against a party hereto and payable under the Indemnification and Insurance requirements of this Contract.

I. **Venue**
The Parties acknowledge and agree that this Contract was entered into and intended to be performed in San Bernardino, 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, County of San Bernardino, 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, County of San Bernardino, San Bernardino District.

J. **Licenses, Permits and Certifications**
Contractor will ensure that it has all necessary licenses, permits and/or certifications required by Federal, State, County, and all municipal laws, ordinances, rules, and regulations, including California Office of Statewide Health Planning and Development (OSHPD). The Contractor shall maintain these licenses, permits and/or certifications in effect for the duration of the 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 certifications may result in immediate termination of this Contract.

K. **Labor Laws**
1. The Contractor, his agents and employees shall be bound by and comply with all applicable provisions of the Labor Code and such federal, state and local laws which affect the conduct of the Work.

2. The Contractor hereby agrees to comply with the State Labor Code and acknowledges that, in accordance with Section 3700 of the State Labor Code, Contractor will be required to secure the payment of compensation to Contractor's employees.

3. The Contractor acknowledges that he will be held responsible for compliance with the provisions of Sections 1777.5 and 1776 of the State Labor Code.

4. The Contractor hereby agrees to reimburse the County for costs incurred by the awarding authority in the substitution of subcontractors. Where a hearing is held pursuant to the provisions of Chapter 4 of the Public Contract Code (commencing with Section 4100) by the awarding authority or a duly appointed hearing officer, the Clerk of the Board of Supervisors shall prepare

and certify a statement of all costs incurred by the County for investigation and conduct of the hearing, including the costs of any hearing officer and shorthand reporter appointed. For the purposes of a hearing for the substitution of subcontractors (pursuant to the Public Contract Code commencing with Section 4100) the awarding authority shall be the Director of the Real Estate Services Department, or his/her designee. The statement shall then be sent to the general contractor, who shall reimburse the County for such costs. If not paid separately, such reimbursement may be deducted from any money due and owing to the general contractor prior to acceptance of the project.

5. Contractor shall strictly adhere to the applicable provisions of the Labor Code regarding the employment of apprentices; minimum wages; travel and subsistence pay; alien labor; the eight-hour day; overtime, Saturday, Sunday and holiday Work; retention and inspection of payroll records; workers compensation; and payment of wages. The Contractor shall forfeit to the County the penalties prescribed in the Labor Code for violations.

6. In accordance with the Labor Code, prevailing wage rate determinations are provided for the Work to be done under this Contract. Updated wage rates will be made available to the Contractor, who shall pay not less than these rates. The Contractor can download updated wage rates at http://www.dir.ca.gov/dlsr/pwd/Southern.html.

7. When the State Labor Code minimum wage and the Federal Wage Determinations (Davis-Bacon Act) are applicable due to federal funding involvement, the higher of the two wage rates per each work classification will prevail.

8. Contractors are prohibited from performing work on a public works project with a subcontractor who is ineligible to perform work on a public works project pursuant to Section 1777.1 or 1777.7 of the Labor Code. 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 awarding body. The contractor shall be responsible for the payment of wages to workers of a debarred subcontractor who has been allowed to work on the project.

9. By its execution of this Agreement, 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 state in part: "For purposes of this paragraph 'construction' includes work performed during the design and preconstruction phase of construction including, but not limited to, inspection and land surveying work". If the Work 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.

10. Contractor agrees to comply with the American Disability Act of 1990 (42 U.S.C. 12101 et seq.), which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the American Disabilities Act.

11. Contractor agrees to comply and certify compliance with the Drug Free Workplace Act of 1990 per Government Code section 8350 et seq.

12. During the term of the Contract, Contractor shall not willfully 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, or military and veteran status. Contractor shall comply with Executive Orders 11246, 11375, 11625, 12138, 12432, 12250, 13672, Title VII of the Civil Rights Act of 1964, the California Fair Housing and Employment 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.

13. Contractor agrees to comply with Senate Bill 854 (signed into law on June 20, 2014). The requirements include, but are not limited to, the following:
    a. No contractor or subcontractor may be listed on a bid proposal (submitted on or after March 1, 2015) for a public works project unless registered with the DIR pursuant to Labor Code section 1725.5, with limited exceptions from this requirements for bid purposes only as allowed under Labor Code section 1771.1(a).

    b. No contractor or subcontractor may be awarded a contract for public work or perform work on a public works project (awarded on or after April 1, 2015) unless registered with the DIR pursuant to Labor Code section 1725.5.

    c. This project is subject to compliance monitoring and enforcement by the DIR.

    d. As required by the DIR, Contractor is required to post job site notices, as prescribed by regulation, regarding compliance monitoring and enforcement by the DIR.

    e. Contractors and all subcontractors must submit certified payroll records online to the Labor Commissioner for all new public works projects (Job Orders) issued on or after April 1, 2015, and for all public works projects (Job Orders), new or ongoing, on or after January 1, 2016.

        i. The certified payroll must be submitted at least monthly to the Labor Commissioner.
        ii. The County reserves the right to require Contractor and all subcontractors to submit certified payroll records more frequently than monthly to the Labor Commissioner
        iii. The certified payroll records must be in a format prescribed by the Labor Commissioner.

14. As required by Labor Code section 1771.1(a) "A contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in this chapter, unless currently registered and qualified to perform public work pursuant to Section 1725.5. It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded."

L. **Work Paid for in Whole or Part Using Federal Funds**

If Federal funds are used in whole or in part to pay for any individual Job Order the Contractor agrees to comply with the following requirements:

1. Compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 C.F.R. Part 3).
2. Compliance with the Davis-Bacon Act (40 U.S.C. 3141 et seq.) as supplemented by Department of Labor regulations (29 C.F.R. Part 5). The prime contractor and all subcontractors are required to pay their laborers and mechanics employed under this contract, a wage not less than the minimum wage for the work classification as specified in both the Federal and State wage decisions. The

higher of the two applicable wage classifications, either State prevailing wage or Davis-Bacon Federal prevailing wage, will be enforced for all work under this contract. The prime contractor is responsible for ensuring subcontractor compliance with Davis-Bacon and Related Acts Requirements. The Federal Labor Standards Provisions (HUD 4010) apply to this Project.

3. Compliance with Section 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701 et seq.) as supplemented by Department of Labor regulations (29 C.F.R. Part 5).
4. All other terms and conditions connected to the Federal Funds as detailed in individual Job Orders.

M. **Notification Regarding Performance**

In the event of a problem or potential problem that could impact the quality or quantity of work, services, or the level of performance under this Contract, the Contractor shall notify the County within one (1) working day, in writing and by telephone.

N. **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.

O. **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 any Contractor 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.

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

P. **Employment of Former County Officials**

Contractor agrees to provide or has already provided information on former County of San Bernardino 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 Vendor. For purposes of this provision, "county administrative official" is defined as a member of the Board of Supervisors or such officer's staff, Chief 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.

Q. **Material Misrepresentations/Misrepresentation**
If during the administration of this Contract, the County determines that the 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.

R. **Ownership of Documents**
All documents, data, products, graphics, computer programs, and reports prepared by the Vendor pursuant to this Contract shall be considered property of the County upon payment for services (and product, if applicable). All such items shall be delivered to the County at the completion of work under this Contract, subject to other requirements in this Contract. Unless otherwise directed by the County, Contractor may retain copies of such items.

S. **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 County of San Bernardino 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, printed material, and periodicals, assembled pursuant to this contract must be filed with the County prior to publication.

T. **Release of Information**
No news releases, advertisements, public announcements or photographs arising out of this Contract or Contractor's relationship with County may be made or used without prior written approval of the County.

U. **Damage to County Property, Facilities, Buildings or Grounds**
The 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.

V. **Drug and Alcohol-Free Workplace**
In recognition of individual rights to work in a safe, healthful and productive work place, as a material condition of this agreement, 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:

a. Shall not be in any way impaired because of being under the influence of alcohol or a drug.
b. Shall not possess an open container of alcohol or consume alcohol or possess or be under the influence of an illegal drug.
c. Shall not sell, offer, or provide alcohol or a drug to another person.

This shall not be applicable to a 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 agreement and any other agreement the Contractor has with the County, if the Contractor or Contractor's employees/subcontractors are determined by the County not to be in compliance with above.

W. **Records**

Contractor shall maintain all records and management books pertaining to local service delivery and demonstrate accountability for contract performance and maintain all fiscal, statistical, and management books and records pertaining to the program. County shall have the right upon reasonable notice and at reasonable hours of business to examine and inspect such records and books.

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 also comply with the appropriate Office of Management and Budget (OMB) Circulars which state the administrative requirements, cost principles and other standards for accountancy.

All records shall be complete and current and comply with all Contract requirements. Failure to maintain acceptable records per the preceding requirements shall be considered grounds for withholding of payments for billings submitted and for termination of the Contract.

X. **Safety Orders**

Contractor agrees to conform to safety orders of OSHA, CALOSHA and/or NIOSHA, and OSH-POD.

Y. **Contractor Debarment**

The Contractor certifies that neither it nor its principals or subcontractors is presently disbarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency or on the Federal Government Excluded Parties List System (www.epls.gov). Contractor agrees that signing this Contract shall constitute signature of this Certification.

Z. **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 (http://www.dgs.ca.gov/pd/Resources/PDLegislation.aspx) 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.

AA. **Bonds**

Contractor will furnish a payment bond in an amount equal to one hundred percent (100%) of the potential Maximum Contract Value of the Contract, and a faithful performance bond in an amount equal to one hundred percent (100%) of the potential Maximum Contract Value of the Contract, said bonds to

be secured from a surety company satisfactory to the County within ten (10) calendar days of the contract award. Bonds shall remain in full force and effect for a period of one (1) year. The bonds will meet all requirements as stated in the General Conditions.

BB. **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 (Indemnitees) from any and all claims, actions, losses, damages, and/or liability arising out of this Contract from any cause whatsoever, including the acts, errors or omissions of any person and for any costs or expenses incurred by the Indemnitees on account of any claim except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of Indemnitees. The Contractor's indemnification obligation applies to the Indemnitee's "passive" negligence but does not apply to the Indemnitee's "sole" or "active" negligence or "willful misconduct" within the meaning of Civil Code Section 2782.

CC. **Insurance Requirements**

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:

1. Insurance Specifications:

   a. Workers' Compensation/Employers 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.

   b. 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 five million dollars ($5,000,000), 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.

c. 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 five million dollars ($5,000,000) 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.

d. Continued Products/Completed Operations Liability Insurance with a limit of not less than five million ($5,000,000) for each occurrence for at least three years following Substantial Completion of the work on projects over one million ($1,000,000).

e. Subcontractor Insurance Requirements - The Contractor agrees to require all parties or Subcontractor, including architects or others it hires or contracts with related to the performance of this contract to provide insurance covering the contracted operations with the basic requirements for all contracts in Section III, Paragraph CC and the insurance specifications for all contracts in Section III, Paragraph CC (including waiver of subrogation rights) and naming the County as an additional insured. The Contractor agrees to monitor and review all such coverage and assumes all responsibility ensuring that such coverage is provided as required here.

f. Course of Construction/Installation (Builder's Risk) property insurance providing all risk, including theft coverage for all property and materials to be used on the project. The insurance policy shall not have any coinsurance penalty

g. 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.

h. Environmental Contracts - In addition to the Basic Requirements/Specifications for all Contracts, any Job Order that involves the use, handling, transportation, storage, abatement, containment or testing of any substance that is potentially toxic or hazardous to the environment, including but not limited to, those listed as hazardous by the United States Department of Transportation or the CAL OSHA "Director's list of Hazardous Substances" or listed as radioactive by the Nuclear Regulatory Commission, shall have the following additional requirements:

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

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

2. Additional Insured – All policies, except for the Workers' Compensation, Errors and Omissions and Professional Liability policies, shall contain endorsements naming the County and its officers, employees, agents and volunteers as additional insureds 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.

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 subcontractor. 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.

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.

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.

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.

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".

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.

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.

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.

IV. COUNTY RESPONSIBILITIES

A. County employs Contractor to provide the materials and to do the Work according to the terms and conditions referred to in this document for the amount identified in each individual Job Order, payable in the manner and upon the conditions set forth in this document.

B. The County will not be responsible for Contractor's supplies, equipment, material, or personal belongings that may be damaged, lost, or stolen.

V. FISCAL PROVISIONS

A. The contract is a competitively bid, firm fixed priced indefinite quantity contract. It includes an ongoing series of individual Projects, detailed repair and construction tasks and specifications, at different locations throughout the County. The bid documents include a Construction Task Catalog® containing construction tasks with preset Unit Prices. It is placed with a Contractor for the accomplishment of repair, alteration, modernization, rehabilitation, construction, etc., of buildings, structures, or other real property. Ordering is accomplished by the issuance of a Job Order against the Contract. The Minimum Contract Value is $25,000, except if the Contract is terminated under Section II, Paragraph C due to the termination of the JOC System License between Contractor and Gordian. Contractor acknowledges that there is no minimum value for individual Job Orders issued under this Contract. The potential Maximum Contract Value is $4,600,000. The Contractor shall perform all Work required, necessary, and proper for or incidental to completing the Work called for in each individual Job Order issued against this Unit Price Contract using the General Building Construction Task Catalog® (CTC) and Technical Specifications incorporated herein using the following adjustment factors:

Zone 1, Adjustment Factor 1: Contractor shall perform any and all functions called for in the Contract during Normal Working Hours (7:00AM to 5:00PM Monday through Friday) in the quantities specified in individual Job Orders against this contract for the unit price sum specified in the CTC multiplied times the adjustment factor of:

0.7600
Utilize four decimal places

Zone 1, Adjustment Factor 2: Contractor shall perform any and all functions called for in the Contract during Other Than Normal Working Hours (5:01PM to 6:59AM Monday through Friday, Saturday, Sunday and County holidays) in the quantities specified in individual Job Orders against this contract for the unit price sum specified in the CTC multiplied times the adjustment factor of:

0.7700
Utilize four decimal places

Zone 1, Adjustment Factor 3: Contractor shall perform any or all functions called for in the Contract and will be required to respond within 24 Hours, upon notification; during Normal Working Hours (7:00AM to 5:00PM Monday through Friday) and during Other Than Normal Working Hours (5:01PM to 6:59AM Monday through Friday, Saturday, Sunday and County holidays) in the quantities specified in individual Job Orders against this contract for the unit price sum specified in the CTC multiplied times the adjustment factor of:

0.7800
Utilize four decimal places

Zone 1, Adjustment Factor 4: Contractor shall perform any or all functions called for in the Contract for Restricted Area Projects, such as Sheriff's Stations, Jails, Hospitals, and California Office of Statewide Health Planning and Development (OSHPD) Facilities, during Normal Working Hours (7:00AM to 5:00PM Monday through Friday) and during Other Than Normal Working Hours (5:01PM

to 6:59AM Monday through Friday, Saturday, Sunday and County holidays) in the quantities specified in individual Job Orders against this contract for the unit price sum specified in the CTC multiplied times the adjustment factor of:

0.7900
Utilize four decimal places

Zone 2, Adjustment Factor 5: Contractor shall perform any or all functions called for in the Contract during Normal Working Hours (7:00AM to 5:00PM Monday through Friday) in the quantities specified in individual Job Orders against this contract for the unit price sum specified in the CTC multiplied times the adjustment factor of:

1.0032
Utilize four decimal places

Zone 2, Adjustment Factor 6: Contractor shall perform any or all functions called for in the Contract during Other Than Normal Working Hours (5:01PM to 6:59AM Monday through Friday, Saturday, Sunday and County holidays) in the quantities specified in individual Job Orders against this contract for the unit price sum specified in the CTC multiplied times the adjustment factor of:

1.0132
Utilize four decimal places

Zone 2, Adjustment Factor 7: Contractor shall perform any or all functions called for in the Contract and will be required to respond within 24 Hours, upon notification; during Normal Working Hours (7:00AM to 5:00PM Monday through Friday) and during Other Than Normal Working Hours (5:01PM to 6:59AM Monday through Friday, Saturday, Sunday and County holidays) in the quantities specified in individual Job Orders against this contract for the unit price sum specified in the CTC multiplied times the adjustment factor of:

1.0232
Utilize four decimal places

Zone 2, Adjustment Factor 8: Contractor shall perform any or all functions called for in the Contract for Restricted Area Projects, such as Sheriff's Stations, Jails, Hospitals, and California Office of Statewide Health Planning and Development (OSHPD) Facilities, during Normal Working Hours (7:00AM to 5:00PM Monday through Friday) and during Other Than Normal Working Hours (5:01PM to 6:59AM Monday through Friday, Saturday, Sunday and County holidays) in the quantities specified in individual Job Orders against this contract for the unit price sum specified in the CTC multiplied times the adjustment factor of:

1.0332
Utilize four decimal places

B. Contractor will provide invoices as detailed in the General Conditions. All invoices shall have attached a Job Order that has been signed by the site Building Maintenance Supervisor, or his designee, to verify that the work has been done. Invoices received without the proper Job Order attached will not be paid.

C. Payments will be as described in the General Conditions and shall not be made more often than once each thirty (30) days, nor shall amount paid be in excess of ninety-five percent (95%) of each Job Order at time of completion of each Job Order. Payment requests shall not be deemed properly completed unless certified payrolls and any other mandatory submittals have been properly completed and submitted for each week worked during the time period covered by said payment request. Final payment, if undisputed, is to be made sixty (60) days subsequent to filing of Notice of Completion or Final Acceptance of the Work by County.

D. 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.

E. 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.

VI. RIGHT TO MONITOR AND AUDIT

A. **Right to Monitor**
The County, 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 agreement and comply with any and all reporting requirements established by the County.

In the event the County determines that Contractor's performance of its duties or other terms of this contract are deficient in any manner, County will notify Contractor of such deficiency in writing or orally, provided written confirmation is given five (5) days thereafter. Contractor shall remedy any deficiency within forty-eight (48) hours of such notification, or County at its option, may terminate this contract immediately upon written notice, or remedy deficiency and offset the cost thereof from any amounts due the Contractor under this contract or otherwise.

B. **Availability of Records**
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 the Contract or until all pending County, State and Federal audits are completed, whichever is later.

VII. CORRECTION OF PERFORMANCE DEFICIENCIES

A. 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.

B. 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:

1. Afford Contractor thereafter a time period within which to cure the breach, which period shall be established at sole discretion of County; and/or
2. 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
3. Withhold funds pending duration of the breach; and/or
4. Offset against any monies billed by Contractor but yet unpaid by County those monies disallowed pursuant to Item "2" of this paragraph; and/or
5. Terminate this Contract immediately and be relieved of the payment of any consideration to Contractor. In 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.

VIII. TERM

This Contract is effective as of December 17, 2019 and expires December 16, 2020 but may be terminated earlier in accordance with provisions of this Contract. Contractor shall complete Work within the time specified in the individual Job Orders. Job Orders issued prior to, but not completed, by the expiration of the Contract period will be completed with all provisions of this Contract still in force.

IX. GENERAL PROVISIONS

A. When notices are required to be given pursuant to this Contract, the notices shall be in writing and mailed to the following respective addresses listed below.

Contractor: PUB Construction, Inc.
23545 Palomino Dr. #104
Diamond Bar, CA 91765

County: Deputy Director
Real Estate Services Department – Project Management Division
385 North Arrowhead Avenue, Third Floor
San Bernardino, CA 92415-0184

B. 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. County shall have Power of Attorney to pay delinquent debts and unpaid wages for work provided under this Contract from accounts payable to Contractor in the event debts and wages have not been paid on a current basis.

D. No waiver of any of the provisions of the Contract shall be effective unless it is made in writing which refers to provisions so waived and which is executed by the Parties. No course of dealing and no delay or failure of a Party in exercising any right under the Contract shall affect any other or future exercise of that right or any exercise of any other right. A Party shall not be precluded from exercising a right by its having partially exercised that right or its having previously abandoned or discontinued steps to enforce that right.

E. If any provision of the Contract is held by a court of competent jurisdiction to be unenforceable or contrary to law, it shall be modified where practicable to the extent necessary so as to be enforceable (giving effect to the intention of the Parties) and the remaining provisions of the Contract shall not be affected.

F. This Contract shall be governed by and construed in all aspects in accordance with the laws of the State of California without regard to principles of conflicts of laws.

G. 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.

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

I. 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.

J. 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.

K. 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.

L. The Director of the Real Estate Services Department 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 Work by Contractor. The County of San Bernardino Board of Supervisors must approve all amendments to this Contract.

X. CONCLUSION

The contract is delivered by Contractor to County for acceptance by its Board of Supervisors at San Bernardino, California, and is deemed to have been entered into at San Bernardino.

IN WITNESS WHEREOF, the Board of Supervisors of the County of San Bernardino has caused this Contract to be subscribed by its duly authorized officers, in its behalf, and the said party of the second part has signed this Contract.

BOARD OF SUPERVISORS

► _____

Curt Hagman, Board of Supervisors

Dated: DEC 17 2019

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

Laura H. Welch ~~Lynna Monell~~
Clerk of the Board of Supervisors
of the County of San Bernardino

By _____ Deputy

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

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

Name Chris Yi
(Print or type name of person signing contract)

Title President
(Print or Type)

Dated: 11-22-2019

23545 Palomino Dr. #104

Diamond Bar, CA 91765

Approved as to Legal Form	Reviewed for Contract Compliance	Reviewed/Approved by Department
► _____	► _____	► _____
Katherine Hardy, Deputy County Counsel	Joel Garnica, Supervising Project Manager	Darlynn M. Wissert, Deputy Director, PMD
Date 11/26/19	Date 11.27.19	Date 12-3-19