



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

2010 JUN 16 PM 4:43

COUNTY OF SANTA BARBARA
CLERK OF THE
BOARD OF SUPERVISORS

Department Name: General Services
Department No.: 063
For Agenda Of: June 22, 2010
Placement: Departmental
Estimated Tme: N/A
Continued Item: Yes
If Yes, date from: June 15, 2010
Vote Required: Majority

TO: Board of Supervisors

FROM: Department Robert Nisbet, Director (805-560-1011) *Robert Nisbet*
Director(s)
Contact Info: Paddy Langlands, Assistant Director (805-568-3096)

SUBJECT: Santa Maria Court Clerks' Building, Project #8526, Award Construction Contract
Fifth District

County Counsel Concurrence

As to form: Yes

Other Concurrence: Risk Management

As to form: Yes

Auditor-Controller Concurrence

As to form: Yes

Recommended Actions: That the Board of Supervisors:

- a) Consent to the conditional withdrawal of the bid of Lewis C. Nelson & Sons, Inc. (LCN), without forfeiture of bid bond; and
- b) Award a fixed price construction contract to low bidder Vernon Edwards Constructors, Inc., ("Edwards") in the amount of \$3,569,098.00, subject to the provisions of the attached contract and the plans and specifications applicable to the project; and
- c) Authorize the Director of General Services or his designee to approve change orders up to the limit specified in Public Contract Code Section 20142, or \$150,000.00 for this contract; and
- d) Authorize the chair to execute the construction contract upon return of the Contractor's executed contract documents, and the review and approval of the County Counsel, Auditor-Controller and Risk Manager or their authorized representatives;

OR, as an alternative to the actions set forth above,

- e) Direct staff to agendize for a future date the public hearing required by state law on the bid protest filed by Edwards.

Summary Text:

If your Board takes the recommended actions, the construction contract for the Santa Maria Court Clerks' Building will be awarded to Edwards, the bid protest will become moot, and construction of the Santa Maria Court Clerks' Building will proceed without delay.

Previously issued Certificates of Participation (COP) funding in the amount of approximately \$4.9 million remains appropriated under a project entitled "SB 1732 Courthouse Deficiencies Program" to fulfill the County's commitment to construct the building as agreed in the court transfer agreement between the County and Administrative office of the Courts (AOC).

Background:

On April 29, 2010, eight bids were opened for the Santa Maria Court Clerks' Project. All bid amounts were lower than the initial engineer's estimate for the project. Nelson was the apparent low bidder. General Services received one bid protest from second low bidder Edwards, claiming that an unfair advantage was realized by LCN as a result of deviations from the requirements of the bid documents. The matter was set for public hearing to be heard on June 1, 2010. The matter was later continued to June 15, 2010, and finally to June 22, 2010. If your Board agrees to allow LCN to withdraw its bid, Edwards' protest will be rendered moot.

Although LCN disagrees with the bid protest submitted to the County on behalf of Vernon Edwards Constructors, Inc. ("VEC"), LCN agrees to withdraw its objections to the VEC bid protest subject to the conditions stated below. Withdrawal of LCN's bid is not an admission of any kind. LCN continues to deny the merits of the VEC bid protest, but has agreed to withdraw its objections in the interests of resolving any disputes with the County. LCN's action is subject to the following conditions:

1. The County will not make any findings, determinations or recommendations with respect to the VEC bid protest, nor will the County make any findings, determinations or recommendations with respect to LCN and the present Project bid;
2. The County will allow LCN to withdraw its bid for the Project, without challenge by the County, and the County shall return the bid bond submitted by LCN for the Project. The County waives any claims against LCN, the bid bond or LCN's sureties arising from the withdrawal of LCN's Project bid; and
3. LCN's bid withdrawal will not be used by either the County or LCN as an acknowledgment or admission of liability of any sort, nor will it be asserted or used by the County in a manner that is adverse to LCN's interests in any future procurement by the County in which LCN is a prospective bidder, including, without limitation, as a basis to determine the responsibility or responsiveness of LCN with respect to any other project.

If the Board agrees with these conditions, you may allow withdrawal of LCN's bid and award the contract today. If the Board does not desire to accept these conditions, LCN is entitled under state law to a public hearing on the bid protest. That public hearing would be scheduled for a future date.

This was the second bidding of the Santa Maria Court Clerks' Building, as the previous bidding did not yield a responsive bid. On February 16, 2010, 16 bids were opened for the Santa Maria Court Clerks Project. Bid protests from general contractor-bidders and from a controls supplier subcontractor warranted a re-bid. On April 6, 2010, your Board rejected the bids received on February 16, 2010, and authorized the General Services Department to re-bid the project.

On December 29, 2003, the Board of Supervisors (BOS) approved the substitution, reallocation and re-appropriation of the approximate \$4.6 million, directing them to be placed in the SB 1732 Court Facilities Deficiencies Program.

On December 9th, 2008, the BOS approved court facility transfer agreements between the AOC and the County of Santa Barbara as per SB1732. Part of the agreement provides for use of these County-held Courts funds to replace certain court structures on the Cook and Miller campus and to consolidate certain court functions. The agreement is known as the "Joint Occupancy Agreement" (JOA). Upon receiving a responsive construction bid, if funds held by the County are found insufficient, the AOC has 30 business days to direct the County on whether or not to proceed with the project. The estimated total project cost is \$5.3 million. If the AOC chooses to move forward with the project, the AOC will have three weeks to deposit the difference between the estimated \$4.9 million that the County is holding and the total project cost into an escrow account. This will ensure that the project is fully funded before contract award. General Services is working with the Courts, AOC and the County Treasurer on an MOU. In the event the AOC chooses not to go forward with the project, General Services will reduce the scope of the project to a size that can be accomplished for the funds we have and meet the County's obligation as per the transfer agreement.

The proposed building will provide a permanent facility for the Superior Court Clerks Office in Santa Maria and will replace 20 plus year old modular buildings, free up 3,614 sq ft of space for needed County use and relocate Court staff out of 2,440 sq ft of leased space.

Performance Measure:

The new Santa Barbara County Court Clerks Building will remove and replace the existing dilapidated modular building, provide improved office space for Court employees, free up a County lease expense of \$35,000 per annum and create 3,614 sq ft of needed space for County employees.

Fiscal and Facilities Impacts:

Budgeted: Yes

Fiscal Analysis:

<u>Funding Sources</u>	<u>Current FY Cost:</u>	<u>Annualized On-going Cost:</u>	<u>Total One-Time Project Cost</u>
General Fund			\$ 4,938,000.00
State			\$ 300,000.00
Federal			
Fees			
Other:			
Total	\$ -	\$ -	\$ 5,238,000.00

Narrative:
The initial project funding (approximately \$100K) is available in Dept. 063, Fund 0030, Program 1930, Account 8700, and Project 8526. The remaining project funding (approximately \$4.8 million) will be transferred from project 8645 (SB1732 Deficiencies Program) to 8526 via re-allocation, and re-appropriation prior to award of contract. If the AOC elects to proceed with the project, the AOC, in conjunction with the local Superior Courts, will fully fund any remaining funding needed to complete the project (Estimated to be approximately \$300 thousand).

The source of the County funding contribution are COP's, issued December 2001.

Staffing Impacts:

Legal Positions:

FTEs:

Special Instructions:

Please send one (1) copy of the minute order to John Green, GS/Support Services Division and Courthouse East Wing.

Attachments:

1. Construction Contract

Authored by:

John Green, Project Manager (805) 934-6229

cc:

Gary Blair, Superior Court Executive Officer

Darrel Parker, Assistant Superior Court Executive Officer

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS:

That the County of Santa Barbara of the State of California (hereinafter referred to as the County) and Vernon Edwards Constructors, Inc. (hereinafter referred to as Principal) have by written agreement dated _____, entered into a contract identified as:

Project Title: County of Santa Barbara
Santa Maria Court Clerk's Building
312 East Cook Street, Santa Maria, CA 93454

County Project No. 8526
(Hereinafter referred to as the Contract) and

That, pursuant to law and to said Contract, and before entering upon the performance of said Contract, the principal is required to file with the County a good and sufficient bond to secure the payment of labor and materials claims.

NOW, THEREFORE, said Principal and _____

_____ as corporate surety (hereinafter referred to as Surety), are held firmly bound unto the County in the amount of \$ _____, for the payment of which Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns both jointly and severally. Surety shall be and hereby warrants that it is listed in the Insurance Organizations Authorized by the Insurance Commissioner to Transact Business of Insurance in the State of California during 1995 (including changes effective January 1, 1996) published by the Department of Insurance, State of California or successor publications.

THE CONDITION OF THIS OBLIGATION IS SUCH that if said principal, his or its subcontractors, heirs, executors, administrators, successors, or assigns, shall fail to pay any of the persons named or referred to in Section 3181 of the California Civil Code, or amounts due under Unemployment Insurance Code with respect to work or labor performed by any such claimant, or for any amounts required to be deducted, withheld and paid over to the Employment Development Department from the wages of employees of the Contractor and his subcontractors pursuant to Section 13020 of the Unemployment Insurance Code with respect to such work and labor as required by Division 3, Part 4, Title XV, Chapter 7 (commencing at Section 3247) of the California Civil Code, or this bond, then said Surety will pay for the same, in an amount not to exceed the amount hereinafter set forth.

This bond shall insure to the benefit of any and all persons, entities, companies and corporations named or referred to in Section 3181 of the California Civil Code, so as to give a right of action to them or their assign in any suit brought upon this bond.

And the said Surety, for value received, hereby agrees that no change, extension of time, alteration or addition to the terms of the Contract, or to the work to be performed thereunder, or the Specifications accompanying the same, shall in anywise 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 Specifications.

In the event suit is brought upon this Bond by County and judgment is recovered, Surety shall pay all costs incurred by the County in such suit, including a reasonable attorney's fee to be fixed by the court.

Death, illness, disability or disqualification of the Principal shall not relieve Surety of its obligations hereunder.

Principal _____

Surety _____

By: _____

Signature of Attorney-in-fact _____

DATED: _____

Address _____

City, State & Zip Code _____

Surety's Agent for Service of Process (located within the State of California):

Name of Agent _____

Address _____

City, State & Zip Code _____

Telephone Number _____

FAX Number _____

NOTE: Signature of those executing for Surety must be properly acknowledged.

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS:

That the County of Santa Barbara of the State of California (hereinafter referred to as the County) and Vernon Edwards Constructors, Inc. (hereinafter referred to as Principal) have by written agreement dated _____, entered into a contract identified as:

Project Title: County of Santa Barbara
Santa Maria Court Clerk's Building
312 East Cook Street, Santa Maria, CA 93454
County Project No. 8526

(Hereinafter referred to as the Contract) and

That, pursuant to law and to said Contract, and before entering upon the performance of said Contract, the Principal is required under the terms and conditions of said Contract to furnish a bond for the faithful performance of Contract.

NOW, THEREFORE, said Principal and _____

_____ as corporate surety (hereinafter referred to as Surety), are held firmly bound unto the County in the amount of \$_____, for the payment of which Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns both jointly and severally. Surety shall be and hereby warrants that it is listed in the Insurance Organizations Authorized by the Insurance Commissioner to Transact Business of Insurance in the State of California during 1995 (including changes effective January 1, 1996) published by the Department of Insurance, State of California or successor publications.

THE CONDITION OF THIS OBLIGATION IS SUCH that if the Principal, his heirs, executors, administrators, successors, or assigns, shall perform all of the covenants, conditions and agreements in said Contract and any alteration thereof made as herein provided, in his or their part, to be kept and performed at the time, and in the manner therein specified, and shall indemnify and save harmless County, its officers, agents, and employees, as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force, virtue and effect.

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

In the event suit is brought upon this Bond by County and judgment is recovered, Surety shall pay all costs incurred by the County in such suit, including a reasonable attorney's fee to be fixed by the court.

Death, illness, disability or disqualification of the Principal shall not relieve Surety of its obligations hereunder.

Principal

Surety

By: _____

Signature of Attorney-in-fact

DATED: _____

Address

City, State & Zip Code

Surety's Agent for Service of Process (located within the State of California):

Name of Agent

Address

City, State & Zip Code

Telephone Number

FAX Number

NOTE: Signature of those executing for Surety must be properly acknowledged.



**CERTIFICATE OF INSURANCE
TRANSMITTAL FORM**

FOR THE FOLLOWING DESCRIBED PROJECT:

County of Santa Barbara
Santa Maria Court Clerk's Building
312 East Cook Street, Santa Maria, CA 93454
County Project No. 8526

CONTRACTOR:

Vernon Edwards Constructors, Inc.
Name

900 East Main Street, Suite 103
Address

Santa Maria, CA 93454
City, State & Zip Code

The successful bidder shall furnish satisfactory proof of the maintenance of adequate Worker's Compensation Insurance, and the maintenance of Comprehensive General and Automobile Liability Insurance in the amount of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate. Builder's Risk Insurance with limits of liability equal to the final completed value of the Project. The insurance shall apply to physical loss or damage to the insured property, and shall include coverage for flood and water damage. The County of Santa Barbara (COUNTY), its officers, employees, and agents shall be named as additional insured on all certificates. A copy of the endorsement evidencing that the County has been added to the policy must be attached to the certificate of insurance. Said policy or policies shall provide that the COUNTY shall be given thirty (30) days written notice prior to cancellation or expiration of the policy or reduction in coverage. Refer to section 5.18 of the General Conditions.

In addition to the above, the following information must appear on the certificates:

County of Santa Barbara, Santa Maria Court Clerk's Project, 312 East Cook Street, Santa Maria, CA 93454
County Project No. 8526

This form must be attached to all insurance forms sent to the County of Santa Barbara, General Services Department:

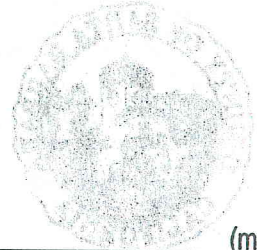
Authorized Insurance Company Representative's Signature

This form may be reproduced as required.

CLAIM CERTIFICATION STATEMENT

(required with any claim for additional compensation or time)

Project No. 8526



I, _____, being the _____ (must be an officer/principle/owner) or _____ (general contractor), declare under penalty of perjury under the laws of the State of California, and do personally certify and attest that: I have thoroughly reviewed the attached claim for additional compensation and/or extension of time, and know its contents, and said claim is made in good faith; the supporting data and documentation is truthful and accurate; that the amount requested accurately reflects the contract adjustment for which the contractor believes the owner is liable; and, further, that I am familiar with California Penal Code/72 and California Government Code/12650, et. Seq., pertaining to false claims, California Government Code/910, and further know and understand that submission or certification of a false claim may lead to fines, imprisonment and/or other severe legal consequences.

Vernon Edwards Constructors, Inc.
Contractor

486458
License No.

By

Title

Dated:

COUNTY OF SANTA BARBARA UNLAWFUL DISCRIMINATION ORDINANCE

Section 2-95. Prohibition of unlawful discrimination in employment practices. The COUNTY reserves the right to terminate forthwith each and every written contract and agreement (except purchase orders) respecting real property for goods and/or services entered into by the COUNTY or by its joint powers, agencies, or agents with the consent of the other parties (hereinafter called "CONTRACTOR") including but not limited to concessions, franchises, construction agreements, leases, whether now in effect or hereinafter made if the COUNTY finds that the CONTRACTOR is discriminating or has discriminated against any employee or applicant for employment in violation of any applicable state or federal laws, rules, or regulations which may now or hereafter specifically prohibit such discrimination on such grounds as race, religion, sex, color, national origin, physical or mental handicap when otherwise qualified, Vietnam war veteran/disabled, age, medical condition, marital status, ancestry, sexual orientation, or other legally protected status.

Such finding may only be made after CONTRACTOR has had a full and fair hearing on notice of thirty (30) days before an impartial hearing officer at which hearing CONTRACTOR may introduce evidence, produce witness, and have the opportunity to cross-examine witnesses produced by the COUNTY. Further, any finding of discrimination must be fully supported by the facts developed at such hearing and set forth in a written opinion; and in addition, CONTRACTOR may move in the appropriate court of law for damages and/or to compel specific performance of a CONTRACTOR or agreement if any of the above procedures are not afforded to the CONTRACTOR. If CONTRACTOR is not found to have engaged in unlawful discriminatory practices, COUNTY shall pay all costs and expense of such hearing, including reasonable attorney's fees to CONTRACTOR in accordance with current Santa Barbara County Superior Court schedule of attorney's fees for civil trials. If CONTRACTOR is found to have engaged in such unlawful discriminatory employment practices, CONTRACTOR shall pay all such costs, expenses, and attorney's fees.

Whether or not a contract or agreement is still in existence at the time of final determination of such unlawful discrimination, the CONTRACTOR shall forthwith reimburse COUNTY for all damages directly stemming from such discrimination; however, those damages shall not exceed and are not reimbursable in an amount which exceeds amounts paid CONTRACTOR under the terms of the contract or agreement.

Nothing in this Section 2-95 shall directly or by interpretation give a private cause of action to any third party (not a signatory to the contract or agreement) including employees past or present, or applicants for employment to CONTRACTOR, it being the sole purpose of this clause to administratively assure compliance with the nondiscrimination clauses contained herein.

Employment practices shall include, but are not limited to employment, promotion, demotion, transfer, recruitment and advertising for recruitment, layoff or other termination, rate of pay, employee benefits, and all other forms of compensation selection for training and apprenticeship and probationary periods.

CONTRACTOR shall permit access at all reasonable time and places to all of its records of employment, advertising, application forms, tests, and all other pertinent employment data and records, to the COUNTY, its officers, employees, and agents for the purpose of investigation to ascertain if any unlawful discrimination as described herein has occurred or is being practiced, provided that such records are relevant to a complaint of an unlawful discriminatory practice which has been forwarded to CONTRACTOR reasonably prior to the time CONTRACTOR is asked to make such records available. In addition, all such records shall be deemed "Confidential" by the officers, employees, and agents of the COUNTY. No records or copies of such records may be removed from the premises of CONTRACTOR and no disclosure, oral, or written of such record, may be made to third parties except as provided within the agreement.

Provided, however, that in the event of a hearing to determine whether or not CONTRACTOR is engaging in unlawful discrimination in employment practices as defined herein, the Board of Supervisor of Santa Barbara County may issue subpoenas to require that certified copies of such records be made available to the hearing.

Failure to fully comply with any of the foregoing provisions relating to unlawful discrimination in employment practices shall be deemed to be a material breach of any contract or agreement with the COUNTY. All persons contracting with or who have contracts for goods or services with the COUNTY shall be notified that this chapter applied to their contract or agreement with the COUNTY (Ordinance No. 2946, SS1; Ordinance No. 2993, SS1; and Ordinance No. 3018, SS1).

Section 2-95.5. Exceptions. Notwithstanding any other provisions in this article, any party contracting with the COUNTY having an affirmative action program which has been approved within twelve (12) months from the date of the contract by an agency of the federal government shall be deemed to be in compliance with the provisions of this article upon furnishing documentary evidence of such approval satisfactory to the COUNTY affirmative action officer. Loss of such approval shall be immediately reported by such party to the COUNTY affirmative action officer.

Section 2-96. Purchase orders. Purchase orders shall contain the following clause as grounds for termination of such purchase orders:

"If complaint is made that seller is engaging in discriminatory employment practices made unlawful by applicable state and federal laws, rules, or regulations, and the State Fair Employment Practice Commission or the Federal Equal Employment Opportunities Commission determines that such unlawful discrimination exists, then the COUNTY may forthwith terminate this order." (Ordinance No. 2946, SS 1)

Section 2-97. Affirmative action officer. At the discretion of the COUNTY affirmative action officer, he or she shall promptly and thoroughly investigate, or cause to be investigated reports and complaints from whatever source, that any party contracting with the COUNTY is engaging, or during the term of a contract or agreement with the COUNTY has engaged, in any unlawful discriminatory employment practices as described in Section 2-95 of this Code. If the investigation discloses reason to believe such unlawful discrimination does exist or has existed and the conditions giving rise thereto have not been changed so as to prevent further such unlawful discrimination, and the said party shall forthwith terminate such unlawful discrimination, take all appropriate steps to prevent a recurrence of such or other unlawful practices, and compensate the person or persons unlawfully discriminated against for any and all loss incurred by reason of such unlawful discrimination, all to the satisfaction of the affirmative action officer, then the affirmative action officer shall cause the matter to be presented for action to the State Fair Employment Practices Commission or the Federal Equal Employment Opportunities Commission, or both, and to any other concerned state or federal agencies or officers.

If and when it has been finally determined by the affirmative action officer, COUNTY counsel, or state or federal regulatory agencies that such unlawful discriminatory employment practice has in fact so occurred or are being carried on, then the affirmative action officer shall forthwith present the entire matter to the Board of Supervisors of the COUNTY, together with all damages, costs, and expense related thereto and incurred by COUNTY, for appropriate action by the Board of Supervisors in accord with the intent and purposes of this article and of the affirmative action program of the COUNTY (Ordinance No. 2946, SS 1).



COUNTY OF SANTA BARBARA
AGREEMENT FOR:

General Services Project No. 8526

County of Santa Barbara

Santa Maria Court Clerk's Building

312 East Cook Street, Santa Maria, CA 93454

THIS AGREEMENT is made by and between the County of Santa Barbara, a political subdivision of the State of California, hereinafter called COUNTY, and Vernon Edwards Constructors, Inc., referred to as CONTRACTOR, for the completion of the work identified herein, on the following terms, conditions and provisions:

1. **CONTRACT:** This agreement incorporates by reference all of the General and Special Conditions and Specifications provided by COUNTY for the work identified above; and where consistent with this document, the proposal executed and submitted by the CONTRACTOR. CONTRACTOR acknowledges receipt of all such documents as were not already in Contractor's possession. Said incorporated documents, this agreement, any Notice to Contractors, the Bid Bond, the Faithful Performance Bond, and Payment Bond are referred to herein as the "Contract" or "Contract Documents." Copies of all said documents are on file in the Department of General Services Office of the COUNTY and have been and will be made available to the CONTRACTOR during the term of this Agreement.
2. **WORK:** CONTRACTOR agrees, at his own proper cost and expense, to furnish all the work and all equipment and materials necessary to perform and complete the work described in the documents referred to above, in a good and workmanlike manner to the satisfaction of the Director of General Services of said COUNTY, all in strict accordance with the Plans and the Contract Documents provided.
3. **EXCAVATIONS:** Before any pavement resurfacing, displacement or excavation of the ground that may be required by any performance under this Agreement, the CONTRACTOR shall obtain an inquiry identification number by calling Underground Service Alert (USA) 1 (800) 422-4133 or by such other means as may be required; shall conform to all requirements of Government Code Sections 4215 through 4217 regarding any such pavement resurfacing, displacement or excavation, including the payment of any fees required; and shall facilitate performance by the COUNTY of any obligation required of the COUNTY under said Sections. There shall be no performance under this Agreement by either party unless and until the provisions of such Sections are complied with and the County Representative is notified regarding the compliance.
4. **COUNTY REPRESENTATIVE:** The County Representative referred to in the Contract Documents is John Green.
5. **PAYMENT:** As full compensation for furnishing all labor, supervision, overhead, materials and equipment and for doing all the work completed and embraced in this Agreement and subject to adjustments and liquidated damages, if any, as provided in the Contract Documents, the base amount to be paid to the CONTRACTOR for satisfactory completion of all requirements of the Contractor under this Agreement is and shall be THREE MILLION FIVE HUNDRED SIXTY NINE THOUSAND NINETY EIGHT DOLLARS (\$3,569,098.00), to be paid as provided in the Contract Documents dated April 02, 2010. The CONTRACTOR assumes and will provide against any and all loss or damage arising out of the nature of the work undertaken, 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 assumes any and all expenses incurred by or in consequence of suspension or discontinuance of the work, for well and faithfully completing the work and the whole thereof, in the manner and to the requirements of the Contract and directions of the County Representative, hereunder. The COUNTY will have the right to audit of Contractor's project records. Records must be made available in a form satisfactory to the Santa Barbara County Auditor-Controller.

6. **EXTRA WORK:** Extra work, materials, resolution of disputes, corrections, and/or changes to the specifications as are required for the proper completion of the work or the improvement contemplated may be effected or authorized in writing and agreement made of compensation at the same rate per unit (or at a corresponding rate for work that is different from that provided for in the Contract Documents) by the County Representative, if compensation is not in excess of 10% of the original base agreement amount or \$25,000, or \$25,000 + 5% of the amount of the bid in excess of \$250,000. Compensation in such equitable amount as is appropriate for the requirements of the COUNTY or may be authorized by resolution or minute order of the Santa Barbara County Board of Supervisors. The County Representative may agree upon appropriate additional time to be allowed as required for such extra work, materials, resolution or changes.

7. **COMPLIANCE WITH LAW, AMENDMENTS:** CONTRACTOR shall keep fully informed of all laws, ordinances and regulations which do or may affect the conduct of the work, the materials used therein or persons engaged or employed thereon and all such orders of bodies and tribunals having any jurisdiction over same. If it be found that the Special Provisions or Standard Specifications for the work conflict with any such law, ordinance or regulation, the CONTRACTOR shall immediately report same to the County Representative in writing. CONTRACTOR shall at all times observe and comply with and shall cause all agents and employees to observe and comply with all such laws, ordinances, regulations or decrees as the same now exists or may be hereafter amended and all superseding provisions thereof. CONTRACTOR acknowledges, particularly, the provisions of Sections 3196 and Sections 3247 and 3252, inclusive, of the Civil Code of California. CONTRACTOR shall protect and indemnify the County of Santa Barbara, the Board of Supervisors, the Director of General Services, and/or any officer, agent or employee of the COUNTY against any claims or liability arising from or based on the violation of any such law, ordinance, regulation or decree whether by CONTRACTOR, or a subcontractor, agent or employee.

8. **PAYMENTS NOT ACCEPTANCE:** No certificate given or payments made under this Contract, except the final payment shall be evidence of the performance of this Contract, either wholly or in part, against any claim upon CONTRACTOR. Final payment for the work performed under this Contract shall not be made until the lapse of thirty (30) days after the Notice of Completion of said work has been filed for record and no payment shall be construed to be acceptance of any defective work or improper materials. CONTRACTOR agrees that the payment for final quantities due under this Contract and the payment of amounts due for any work in accordance with any amendments of this Contract, shall release the County of Santa Barbara from any and all claims or liabilities on account of work performed under this Contract or any amendments thereof. In addition to guarantees required elsewhere, CONTRACTOR shall and does hereby guarantee all workmanship and material to be free of defects and fit for the purposes intended for a period of one year from and after both the date of acceptance of the work and the recordation of the Notice of Completion by the COUNTY, and CONTRACTOR shall repair or replace any or all work and material, together with any other portions of the work which may be displaced in so doing, that in the opinion of the County Representative, is or becomes defective during the period of said guarantee without expense whatsoever to the COUNTY.

9. **PREVAILING WAGE RATES:** Rates of wages, including overtime, holiday and Sunday rates provided for the work are subject to the effect of the California Labor Code, Sections 1770 et. seq. Executive Orders of the President of the United States No. 9240, dated September 9, 1942, and No. 9250, dated October 3, 1942, and to any modifications thereof and to any and all lawful orders of the President or any authorized Federal Officer or agency, insofar as the same may be applicable to this Contract.

10. **CONTRACT DOCUMENTS ACKNOWLEDGED:** CONTRACTOR hereby declares that he has read the "Contract Documents" pertaining to the work to be accomplished hereunder, has carefully examined the plans and detail drawings of the work to be performed and fully understands the intent and meaning of the same.

11. TIME FOR COMMENCEMENT, COMPLETION: The work to be done under this Agreement shall be completed within 410 calendar days after execution of this Agreement. As soon as practicable after the Contract has been executed by both the CONTRACTOR and the COUNTY, a Notice to Proceed will be issued by the County Representative stating the starting date of the Contract time. The CONTRACTOR shall begin work within fifteen (15) calendar days after receiving the Notice to Proceed, unless otherwise provided. Attention is directed to the provisions of this Agreement pertaining to Liquidated Damages for failure to complete the work within the allowed time.

12. WORKERS' COMPENSATION INSURANCE: CONTRACTOR certifies as to knowledge of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for Workers' Compensation or to undertake self insurance in accordance with the provisions of that Code. CONTRACTOR will comply with such provisions before commencing the performance of the work of this Contract.

13. PROGRESS PAYMENT NO WAIVER FOR DELAY: Any progress payment made after the scheduled completion date will not constitute a waiver of any liquidated damages heretofore agreed upon as part of this Contract.

14. GUARANTEE BONDS: Before any performance under this Agreement, the CONTRACTOR shall provide the security required by statute for the payment of all workers and suppliers, and security for faithful performance of all terms and conditions of this Agreement, in an amount and form approved by the COUNTY. Both securities shall contain provisions which automatically increase amounts thereof and/or time of completion or both for all change orders, extensions and additions to the work provided pursuant to this Agreement.

15. NON-DISCRIMINATION: The CONTRACTOR acknowledges that this Agreement is subject to the provisions of Article XIII of Chapter 2 of the Santa Barbara County Code, providing against discrimination in employment. The CONTRACTOR agrees to perform all requirements of a contractor under the provisions of said Article and to pay all costs occasioned to the COUNTY by any noncompliance by the CONTRACTOR.

16. DISPUTES: Should any dispute arise respecting the construction or meaning of any of the plans or specifications affecting the work or respecting the true value of any extra work or work omitted, the dispute shall be resolved by the Engineer/Architect whose decision shall be final and binding upon the parties. If, after the decision of the Engineer/Architect as provided herein, claims (as defined in Public Contracts Code Section 20104) under this Contract are filed by CONTRACTOR against COUNTY and those claims are in the aggregate amount of \$375,000 or less, said claims shall be resolved pursuant to Public Contracts Code Sections 20104 through 20104.8, inclusive.

17. SUBSTITUTION OF MATERIALS, SUBSTITUTION OF CONTRACTORS: The County Representative is authorized to act on behalf of the awarding authority in any matters requiring consent, notice or hearing in order to substitute materials or equipment specified or to substitute subcontractors.

ACCEPTED AND AGREED this _____ th day of _____ 2010.

"CONTRACTOR":
VERNON EDWARDS CONSTRUCTORS, INC.

NAME AND TITLE

Address: 900 East Main Street. , Suite 103
City/State/Zip: Santa Maria CA, 93454
License #: 486458
IRS#: 77-0079395

"COUNTY"
County of Santa Barbara

ATTEST:
MICHAEL F. BROWN
CLERK OF THE BOARD

By: _____
CHAIR, BOARD OF SUPERVISORS
County of Santa Barbara

By: _____
Deputy Clerk of the Board

APPROVED AS TO FORM:
DENNIS A. MARSHALL,
COUNTY COUNSEL

APPROVED AS TO ACCOUNTING FORM:
ROBERT W. GEIS, CPA
AUDITOR-CONTROLLER

By: _____
Deputy County Counsel

By: _____
Deputy Auditor-Controller

APPROVED AS TO FORM:
RAY AROMATORIO
RISK PROGRAM ADMINISTRATOR

By: _____