

Attachment 1

ATTACHMENT 1

Construction Agreement



**COUNTY OF SANTA BARBARA
AGREEMENT FOR:**

General Services Project No. 21060

County of Santa Barbara
Elections & VA Building Roof Replacement
4440 Calle Real., Santa Barbara, CA 93101

BC: _____ - _____

THIS AGREEMENT ("Agreement") is made by and between the County of Santa Barbara, a political subdivision of the State of California ("COUNTY"), and Best Contracting Services, Inc. ("CONTRACTOR"), for the completion of the Work (defined below), 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 the COUNTY for the Elections & VA Building Roof Replacement Project No. 21060, the Notice to Contractors, the Bid Bond, the Faithful Performance Bond, the Payment Bond, and the proposal executed and submitted by the CONTRACTOR for the Project ("Proposal"), to the extent the Proposal is consistent with the provisions of this Agreement other than the Proposal (all of the foregoing documents together with this Agreement, collectively, the "Contract" or "Contract Documents"). All capitalized terms used but not defined herein shall have the respective meanings ascribed to such terms in the Notice to Contractors. Copies of all Contract 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. CONTRACTOR acknowledges receipt of all Contract Documents.

2. WORK: CONTRACTOR, at CONTRACTOR's own cost and expense, shall perform all the work described in the Contract Documents ("Work"), and shall furnish all equipment and materials necessary to perform and complete the Work, in a good and workmanlike manner and to the satisfaction of the Director of General Services of the COUNTY, all in strict accordance with the Plans and the Contract Documents.

3. EXCAVATIONS: Before any pavement resurfacing, displacement, or excavation of the ground that may be required in connection with the Work under this Contract, 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 Sections 4215 through 4217 of the Government Code 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 the Government Code. There shall be no performance under this Contract by either party hereto unless and until CONTRACTOR complies with all of the provisions of such sections of the Government Code, and notifies the County Representative (defined below) in writing regarding such compliance.

4. COUNTY REPRESENTATIVE: The "County Representative" referred to in the Contract Documents is Steve Fernandes.

5. PAYMENT: As full compensation for furnishing all labor, supervision, overhead, materials, and equipment and for completing all of the Work contemplated by this Contract, 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 Contract is and shall be **FOUR HUNDRED FIFTY-TWO THOUSAND DOLLARS (\$452,000.00)** ("Base Contract Amount"), to be paid as provided in the Contract Documents. The CONTRACTOR assumes and will provide against any loss or damage arising out of the nature of the Work undertaken, or the action of the elements, or from any unforeseen difficulties or obstructions which may arise or be encountered in the performance 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.

6. RIGHT TO AUDIT: CONTRACTOR shall maintain and make available all books, papers, records, detail costs, estimates, claims, and accounts, including payment, property, payroll, personnel, subcontractors, and financial records related to or which arise in connection with the Contract ("Records"). The form of record keeping with respect to the Records shall be subject to approval by COUNTY. The Records shall be made available during normal business hours for examination by COUNTY or the County Representative and shall be retained at

CONTRACTOR'S principal place of business in California for audit during normal business hours at such place for four (4) years after the recording of the Notice of Completion for the Project. CONTRACTOR shall provide an office in which COUNTY and the County Representative may conduct such audit(s).

The COUNTY will have the right to audit CONTRACTOR'S Project records. Records must be made available in a form satisfactory to the Santa Barbara County Auditor-Controller.

7. 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 improvements contemplated in the Contract Documents may be effected or authorized in writing duly executed by the County Representative, including agreement(s) providing for compensation in addition to the Base Contract Amount at the same rate per unit (or at a corresponding rate for work that is different from that provided for in the Contract Documents); provided, however, that the aggregate amount of such compensation in addition to the Base Contract Amount shall not exceed ten percent (10%) of the Base Contract Amount or \$25,000, or \$25,000 + 5% of the amount of the bid in excess of \$250,000. Compensation in such other equitable amount as is appropriate for the requirements of the COUNTY may be authorized by resolution or minute order of the Santa Barbara County Board of Supervisors. The County Representative may agree upon an appropriate additional time to be allowed as required for such extra work, materials, resolution, or changes.

8. COMPLIANCE WITH LAW, AMENDMENTS: CONTRACTOR shall keep fully informed of all laws, statutes, ordinances, decrees, orders, and regulations which do or may affect the Project, performance of the Work, the materials used therein, or persons engaged in connection therewith, and all such orders of bodies and tribunals having any jurisdiction over same (collectively, "Applicable Laws"). If it be found that the Special Provisions or Standard Specifications for the Work conflict with any Applicable Law(s), 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, employees, and subcontractors to observe and comply with, all Applicable Laws. CONTRACTOR acknowledges the provisions of Sections 9364 and Sections 9550 and 9566, inclusive, of the Civil Code of California.

9. PAYMENTS NOT ACCEPTANCE: No certificate given or payments made under this Contract, except the final payment hereunder, 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 this Contract shall release the County of Santa Barbara from any claims or liabilities on account of Work performed under this Contract, as the same may be amended from time to time during the Term. 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 all Work and materials, 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.

10. PREVAILING WAGE RATES: Rates of wages, including overtime, holiday, and Sunday rates provided for the Work shall comply with and are subject to 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 orders of the President or any authorized Federal Officer or agency, insofar as the same may apply this Contract.

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

11. CONTRACT DOCUMENTS ACKNOWLEDGED: CONTRACTOR hereby declares that CONTRACTOR has read the Contract Documents, has carefully examined the plans and detailed drawings of the Work to be performed, and fully understands the intent and meaning of the same.

12. TIME FOR COMMENCEMENT, COMPLETION: The Work to be performed under this Contract shall be completed within 180 calendar days after execution of this Agreement ("Term"). 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 work performance under the Contract. The CONTRACTOR shall begin work within fifteen (15) calendar days after receiving the Notice to Proceed unless otherwise provided therein. The provisions of this Agreement pertaining to Liquidated Damages shall apply in the event of the CONTRACTOR's failure to complete the Work within the Term.

13. WORKERS' COMPENSATION INSURANCE: CONTRACTOR certifies that CONTRACTOR has knowledge of, is in compliance with, and warrants that CONTRACTOR at all times during the TERM shall remain in compliance with, 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 by the provisions of that Code. CONTRACTOR shall comply with such provisions before commencing the performance of the Work.

14. PROGRESS PAYMENT NO WAIVER FOR DELAY: Any progress payment made after the scheduled completion date will not constitute a waiver of any liquidated damages under this Contract.

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

16. 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.

17. DISPUTES: Should any dispute(s) 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, such dispute(s) shall be resolved by the Project Engineer/Architect, whose decision shall be final and binding upon the parties hereto. If, after the decision of the Project 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, such claims shall be resolved under Public Contracts Code Sections 20104 through 20104.8, inclusive.

18. 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 to substitute materials or equipment specified or to substitute subcontractors.

19. SURVIVAL: All provisions of this Contract which by their nature are intended to survive the termination or expiration of this Agreement shall survive such termination or expiration.

20. INDEMNIFICATION AND INSURANCE: CONTRACTOR shall, at all times during the Term, comply with the indemnification and insurance provisions set forth in EXHIBIT C, attached hereto and incorporated herein by reference.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective as of the date executed by the County.

COUNTY

County of Santa Barbara

By: _____
DAS WILLIAMS, CHAIR
BOARD OF SUPERVISORS

Dated: _____

ATTEST:

MONA MIYASATO,

COUNTY EXECUTIVE OFFICER

CLERK OF THE BOARD

By: _____
Deputy Clerk of the Board

CONTRACTOR

Best Contracting Services, Inc., a California corporation

DocuSigned by:
Kayhan Fatemi
By: _____
DEBAB2538DBB472...
AUTHORIZED REPRESENTATIVE
Name: KAYHAN FATEMI

Title: Executive VICE PRESIDENT

APPROVED AS TO FORM:

RACHEL VAN MULLEM,
COUNTY COUNSEL

DocuSigned by:
Lauren Wideman
By: _____
EBE96ED16FBD4EE...
Deputy County Counsel

APPROVED AS TO ACCOUNTING FORM:

BETSY SCHAFFER, CPA, CPFO
AUDITOR-CONTROLLER

DocuSigned by:
Betsy Schaffer
By: _____
6BAAEA15901943F...
Deputy Auditor-Controller

APPROVED AS TO FORM:

GREG MILLIGAN, ARM
RISK MANAGER

DocuSigned by:
Greg Milligan
By: _____
DC240AC1E64247D...
Risk Management

RECOMMENDED FOR APPROVAL

KIRK LAGERQUIST, DIRECTOR
GENERAL SERVICES DEPARTMENT

DocuSigned by:
Kirk Lagerquist
By: _____
19AEDA90054E4GE...
Department Head

Dept 063

Fund 00030

Program 1930

Account 8200

Project 21060