

Attachment 1

ATTACHMENT 1

Construction Agreement



COUNTY OF SANTA BARBARA
AGREEMENT FOR:
General Services Project No. 21017
County of Santa Barbara
Sheriff, Main Jail Elevator Repair
4436 Calle Real
Santa Barbara, CA 93110

BC: _____ - _____

THIS AGREEMENT ("Agreement") is made by and between the County of Santa Barbara, a political subdivision of the State of California ("COUNTY"), and **Urban Elevator Services CA LLC** ("CONTRACTOR"), for the completion of the work identified herein ("Work") in connection with General Services Project No. 21017 ("Project"), 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 in connection with the Project ("Project Documents"), and, to the extent consistent with this Agreement and the Project Documents and the RFP (defined below), the proposal executed and submitted by the CONTRACTOR in response to the County's Request For Proposals ("RFP") for the Project ("Proposal"). CONTRACTOR acknowledges receipt of all Project Documents. This Agreement, together with the Project Documents, the RFP, the Proposal, any Notice to Contractors in connection with the Project, the Project Bid Bond, Faithful Performance Bond, and Payment Bond, are referred to herein, collectively, as the "Contract" or "Contract Documents." 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. All capitalized terms used but not defined herein shall have the respective meaning ascribed to such terms in the RFP and the Project Documents.
- 2. WORK:** CONTRACTOR shall, at CONTRACTOR's own cost and expense, to furnish all of the Work and all equipment and materials necessary to perform and complete the Work as set forth in the Contract Documents, in a good and workmanlike manner to the satisfaction of the Director of General Services of the COUNTY, all in strict accordance with the Specifications and the Contract Documents.
- 3. EXCAVATIONS:** Before any pavement resurfacing, displacement or excavation of the ground that may be required by any performance of Work 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 comply with 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 Government Code Sections. There shall be no performance under this Agreement by either party prior to (i) compliance with the foregoing provisions of this Section 3, and (ii) CONTRACTOR notifies the County Representative in writing of such compliance.
- 4. COUNTY REPRESENTATIVE:** The County Representative referred to in the Contract Documents is Elizabeth Villatoro, Sr. Project Manager.

5. PAYMENT: As full compensation for furnishing all labor, supervision, overhead, materials and equipment, and for completion all of the Work contemplated in the Contract Documents, 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 Four Hundred Thousand Seven Hundred Forty Five DOLLARS (\$400,745.00), to be paid as provided in the Contract Documents. The CONTRACTOR assumes and shall provide against any and all loss or damage arising out of the nature of the Work undertaken, from the action of the elements, 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 entirety of the Work in the manner contemplated by and in accordance with the requirements set forth in the Contract and the 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, sub-subcontractors and financial records related to or which arise in connection with the Contract (collectively, the Project Records). The form of such record keeping shall be subject to approval by COUNTY. Such Project Records shall be made available for examination by COUNTY or COUNTY'S representative during normal business hours, 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 recording of the Notice of Completion for the Project. CONTRACTOR shall provide an office in which COUNTY and COUNTY'S representative may conduct such audit(s). The COUNTY shall have the right to audit CONTRACTOR'S Project Records. All Project Records shall 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 contemplated in the Contract Documents 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 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 appropriate additional time to be allowed for performance of the Work as required for such extra work, materials, resolution or changes.

8. COMPLIANCE WITH LAW, AMENDMENTS: CONTRACTOR shall keep fully informed of, and shall at all times during the term of this Agreement ensure the performance of the Work in compliance with, all laws, ordinances and regulations which do or may affect the conduct of the Work, the materials used therein, or persons engaged or employed in the performance of the Work, 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 CONTRACTOR's agents, subcontractors, and employees to observe and comply with all such laws, ordinances, regulations and decrees as the same now exists or may be hereafter amended or enacted, and all superseding provisions thereof. CONTRACTOR acknowledges and agreed to comply with, particularly, the provisions of Sections 9364 and Sections 9550 and 9566, 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 all officers, agents, and employees 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.

9. PAYMENTS NOT ACCEPTANCE: No certificate given or payments made under this Contract, except the final payment made in accordance with the provisions of the Contract Documents, 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.

10. 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.

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 pursuant to Labor 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" 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.

12. TIME FOR COMMENCEMENT, COMPLETION: The Work to be performed under this Agreement shall be completed within 30 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.

13. WORKERS' COMPENSATION INSURANCE: CONTRACTOR certifies CONTRACTOR's 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 shall comply with such provisions before commencing the performance of the Work under this Contract.

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

15. 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.

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 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 shall be resolved by Scott Elevator Consultants a division of HKA Elevator Consulting, Inc. (Consultant) and the County of Santa Barbara (Owner), whose decision shall be final and binding upon the parties to such dispute. If, after the decision of the Consultant and the Owner 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.

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 in order 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.

IN WITNESS WHEREOF, the parties hereto have executed the Agreement to be effective as of the first date fully executed by all the parties hereto.

COUNTY

County of Santa Barbara

By: _____
JOAN HARTMANN, CHAIR
BOARD OF SUPERVISORS

Dated: _____

ATTEST:

MONA MIYASATO,
COUNTY EXECUTIVE OFFICER
CLERK OF THE BOARD

By: _____
Deputy Clerk of the Board

CONTRACTOR

Urban Elevator Services CA
License #C-11, 1078335

By: _____
AUTHORIZED REPRESENTATIVE

Name: _____

Title: _____

APPROVED AS TO FORM:

RACHAL VAN MULLEM,
COUNTY COUNSEL

By: _____
Deputy County Counsel
DocuSigned by:
Lauren Wideman
8F464D822C84458

APPROVED AS TO ACCOUNTING FORM:

BETSY SCHAFFER, CPA, CPFO
AUDITOR-CONTROLLER

By: _____
Deputy Auditor-Controller
DocuSigned by:
C. Edith
A99ED5BD71D04F8...

APPROVED AS TO FORM:

GREG MILLIGAN
RISK MANAGER

By: _____
Risk Manager
DocuSigned by:
Greg Milligan
53A6AAB798BA4D7...

RECOMMENDED FOR APPROVAL

JANETTE D. PELL, DIRECTOR
GENERAL SERVICES DEPARTMENT

By: _____
Department Head
DocuSigned by:
Janette D. Pell
1FBA9BD673A445F...

IN WITNESS WHEREOF, the parties hereto have executed the Agreement to be effective as of the first date fully executed by all the parties hereto.

COUNTY

County of Santa Barbara

By: _____
JOAN HARTMANN, CHAIR
BOARD OF SUPERVISORS

Dated: _____

ATTEST:

MONA MIYASATO,
COUNTY EXECUTIVE OFFICER
CLERK OF THE BOARD

By: _____
Deputy Clerk of the Board

CONTRACTOR

Urban Elevator Services CA
License #C-11, 1078335

By: _____
DocuSigned by:
Rene Hertsberg
C9CC4465400C405...
AUTHORIZED REPRESENTATIVE

Name: _____
Rene Hertsberg

Title: _____
Co-CEO & General Counsel

APPROVED AS TO FORM:

RACHAL VAN MULLEM,
COUNTY COUNSEL

By: _____
Deputy County Counsel

APPROVED AS TO ACCOUNTING FORM:

BETSY SCHAFFER, CPA, CPFO
AUDITOR-CONTROLLER

By: _____
Deputy Auditor-Controller

APPROVED AS TO FORM:

GREG MILLIGAN
RISK MANAGER

By: _____
Risk Manager

RECOMMENDED FOR APPROVAL

JANETTE D. PELL, DIRECTOR
GENERAL SERVICES DEPARTMENT

By: _____
Department Head

EXHIBIT D
AMERICAN RESCUE PLAN ACT (ARPA) REQUIRED TERMS

This Agreement is funded through the Coronavirus State Fiscal Recovery Fund and the Coronavirus Local Fiscal Recovery Fund (SLFRF), a part of the American Rescue Plan Act (ARPA or Act), Pub. L. No. 117-2 (March 11, 2021) (codified as 42 U.S.C. § 801 *et seq.*). ARPA imposes certain requirements through the Act, its implementing regulations at 2 C.F.R. Part 200, the Award Terms and Conditions imposed by the U.S. Department of the Treasury (Treasury) onto the COUNTY, and Treasury's *Coronavirus State and Local Fiscal Recovery Funds Compliance and Reporting Guidance*. In recognition of these funding requirements, CONTRACTOR agrees to the following provisions:

1. **GENERAL COMPLIANCE.** CONTRACTOR shall comply with the requirements of the Act; the SLFRF; the United States Department of the Treasury Coronavirus State Fiscal Recovery Fund Award Terms and Conditions imposed by the U.S. Department of the Treasury (Treasury) onto the COUNTY; and all other applicable federal, state, and local laws, regulations, ordinances, orders, rules, guidelines, directives, circulars, bulletins, notices, and policies governing SLFRF currently and as they may be amended from time to time.
2. **USE OF FUNDS:** CONTRACTOR agrees that it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of this Agreement.
3. **REPORTING.** CONTRACTOR shall comply with any reporting obligations established by the Treasury, as they relate to this Agreement, upon request from COUNTY.
4. **DEBARMENT AND SUSPENSION.** As required by 2 C.F.R. § 200.214, CONTRACTOR warrants that it is not subject to the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, 2 C.F.R. Part 180, which restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.
5. **MAINTENANCE OF AND ACCESS TO RECORDS.**
 - A. Pursuant to 2 C.F.R. § 200.337 and Section 4 of the Award Terms and Conditions, CONTRACTOR shall maintain records and financial documents sufficient for COUNTY to show compliance with Sections 602(c) and 603(c) of the Act, Treasury's regulations implementing those sections, and guidance regarding the eligible uses of funds.
 - B. The Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, shall have the right of access to records (electronic and otherwise) of CONTRACTOR in order to conduct audits or other investigations.
 - C. Irrespective of Section 6 – Right to Audit of the Agreement, records shall be maintained by CONTRACTOR for a period of five (5) years after final payment for the Services.

6. CONFLICT OF INTEREST.

CONTRACTOR covenants that CONTRACTOR presently has no employment or interest and shall not acquire any employment or interest, direct or indirect, including any interest in any business, property, or source of income, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. CONTRACTOR further covenants that in the performance of this Agreement, no person having any such interest shall be employed by CONTRACTOR. CONTRACTOR must promptly disclose to COUNTY, in writing, any potential conflict of interest. COUNTY retains the right to waive a conflict of interest disclosed by CONTRACTOR if COUNTY determines it to be immaterial, and such waiver is only effective if provided by COUNTY to CONTRACTOR in writing.

7. TERMINATION

- A. By COUNTY. COUNTY may, by written notice to CONTRACTOR, terminate this Agreement in whole or in part at any time, whether for COUNTY's convenience, for nonappropriation of funds, or because of the failure of CONTRACTOR to fulfill the obligations herein.
1. **For Convenience.** COUNTY may terminate this Agreement in whole or in part upon thirty (30) days written notice. During the thirty (30) day period, CONTRACTOR shall, as directed by COUNTY, wind down and cease its services as quickly and efficiently as reasonably possible, without performing unnecessary services or activities and by minimizing negative effects on COUNTY from such winding down and cessation of services.
 2. **For Nonappropriation of Funds.** Notwithstanding any other provision of this Agreement, in the event that no funds or insufficient funds are appropriated or budgeted by federal, state or COUNTY governments, or funds are not otherwise available for payments in the fiscal year(s) covered by the term of this Agreement, then COUNTY will notify CONTRACTOR of such occurrence and COUNTY may terminate or suspend this Agreement in whole or in part, with or without a prior notice period. Subsequent to termination of this Agreement under this provision, COUNTY shall have no obligation to make payments with regard to the remainder of the term.
 3. **For Cause.** Should CONTRACTOR default in the performance of this Agreement or materially breach any of its provisions, COUNTY may, at COUNTY's sole option, terminate or suspend this Agreement in whole or in part by written notice. Upon receipt of notice, CONTRACTOR shall immediately discontinue all services affected (unless the notice directs otherwise) and notify COUNTY as to the status of its performance. The date of termination shall be the date the notice is received by CONTRACTOR, unless the notice directs otherwise.
- B. By CONTRACTOR. Should COUNTY fail to pay CONTRACTOR all or any part of the payment set forth in EXHIBIT B, CONTRACTOR may, at CONTRACTOR's option terminate this Agreement if such failure is not remedied by COUNTY within thirty (30) days of written notice to COUNTY of such late payment.

- C. Upon termination, CONTRACTOR shall deliver to COUNTY all data, estimates, graphs, summaries, reports, and all other property, records, documents or papers as may have been accumulated or produced by CONTRACTOR in performing this Agreement, whether completed or in process, except such items as COUNTY may, by written permission, permit CONTRACTOR to retain. Notwithstanding any other payment provision of this Agreement, COUNTY shall pay CONTRACTOR for satisfactory services performed to the date of termination to include a prorated amount of compensation due hereunder less payments, if any, previously made. In no event shall CONTRACTOR be paid an amount in excess of the full price under this Agreement nor for profit on unperformed portions of service. CONTRACTOR shall furnish to COUNTY such financial information as in the judgment of COUNTY is necessary to determine the reasonable value of the services rendered by CONTRACTOR. In the event of a dispute as to the reasonable value of the services rendered by CONTRACTOR, the decision of COUNTY shall be final. The foregoing is cumulative and shall not affect any right or remedy which COUNTY may have in law or equity.

8. OWNERSHIP OF DOCUMENTS AND INTELLECTUAL PROPERTY.

- A. COUNTY shall be the owner of the following items incidental to this Agreement upon production, whether or not completed: all data collected, all documents of any type whatsoever, all photos, designs, sound or audiovisual recordings, software code, inventions, technologies, and other materials, and any material necessary for the practical use of such items, from the time of collection and/or production whether or not performance under this Agreement is completed or terminated prior to completion. CONTRACTOR shall not release any of such items to other parties except after prior written approval of COUNTY.
- B. Unless otherwise specified in the Agreement, CONTRACTOR hereby assigns to COUNTY all copyright, patent, and other intellectual property and proprietary rights to all data, documents, reports, photos, designs, sound or audiovisual recordings, software code, inventions, technologies, and other materials prepared or provided by CONTRACTOR pursuant to this Agreement (collectively referred to as "Copyrightable Works and Inventions"). COUNTY shall have the unrestricted authority to copy, adapt, perform, display, publish, disclose, distribute, create derivative works from, and otherwise use in whole or in part, any Copyrightable Works and Inventions. CONTRACTOR agrees to take such actions and execute and deliver such documents as may be needed to validate, protect and confirm the rights and assignments provided hereunder. CONTRACTOR warrants that any Copyrightable Works and Inventions and other items provided under this Agreement will not infringe upon any intellectual property or proprietary rights of any third party. CONTRACTOR at its own expense shall defend, indemnify, and hold harmless COUNTY against any claim that any Copyrightable Works or Inventions or other items provided by CONTRACTOR hereunder infringe upon intellectual or other proprietary rights of a third party, and CONTRACTOR shall pay any damages, costs, settlement amounts, and fees (including attorneys' fees) that may be incurred by COUNTY in connection with any such claims. This Ownership of Documents and Intellectual Property provision shall survive expiration or termination of this Agreement.

9. EQUAL EMPLOYMENT OPPORTUNITY

During the performance of this Agreement, CONTRACTOR agrees as follows:

- A. CONTRACTOR will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. CONTRACTOR will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- B. CONTRACTOR will, in all solicitations or advertisements for employees placed by or on behalf of CONTRACTOR, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
- C. CONTRACTOR will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of CONTRACTOR'S commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- D. CONTRACTOR agrees to comply with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, as supplemented in Department of Labor regulations (41 CFR Part 60) and all other applicable rules, regulations, and relevant orders of the Secretary of Labor. Title 41 CFR section 60.14 applies to this Agreement and is incorporated herein by this reference with the same force and effect as if the regulation were specifically set out herein and CONTRACTOR agrees to comply with said regulation.
- E. CONTRACTOR will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- F. In the event of CONTRACTOR'S noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules, regulations, or orders, this Agreement may be cancelled, terminated, or suspended in whole or in part and CONTRACTOR may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in

Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

- G. CONTRACTOR will include the portion of the sentence immediately preceding paragraph (A) and the provisions of paragraphs (A) through (F) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. CONTRACTOR will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a CONTRACTOR becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency CONTRACTOR may request the United States to enter into such litigation to protect the interests of the United States.

10. NONDISCRIMINATION

- A. CONTRACTOR shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this Agreement. Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this Agreement.
- B. CONTRACTOR shall report any complaints of discrimination on the grounds of race, color, or national origin, and limited English proficiency covered by Title VI of the Civil Rights Act of 1964 and implementing regulations and provide, upon request, a list of all such reviews or proceedings based on the complaint, pending or completed, including outcome.
- C. CONTRACTOR shall incorporate the language in Section 10 (A) through (B). in every agreement with a subcontractor or purchase order funded under this Agreement.
- D. CONTRACTOR shall comply with the Age Discrimination Act of 1975, 42 U.S.C. 6101 et seq., as codified at 45 CFR Part 91, which prohibits discrimination on the basis of age in any program or activity receiving Federal financial assistance.
- E. CONTRACTOR shall comply with Title IX of the Education Amendments of 1972, 20 U.S.C. 1681, 1682, 1683, 1685, and 1686, as codified at 45 CFR Part 86, which provides that no person in the United States will, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving Federal financial assistance.

11. CLEAN AIR ACT

- A. CONTRACTOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
- B. CONTRACTOR agrees to report each violation to the California Environmental Protection Agency and understands and agrees that the California Environmental Protection Agency will, in turn, report each violation as required to assure notification to the COUNTY, the Federal Agency which provided funds in support of this Agreement, and the appropriate Environmental Protection Agency Regional Office.
- C. CONTRACTOR agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance.

12. FEDERAL WATER POLLUTION CONTROL ACT

- A. CONTRACTOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
- B. CONTRACTOR agrees to report each violation to the California State Water Resources Control Board and understands and agrees that the California State Water Resources Control Board will, in turn, report each violation as required to assure notification to the COUNTY, the Federal Agency which provided funds in support of this Agreement, and the appropriate Environmental Protection Agency Regional Office.
- C. CONTRACTOR agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance.

13. DEBARMENT AND SUSPENSION

- A. CONTRACTOR certifies to COUNTY that it and its employees and principals are not debarred, suspended, or otherwise excluded from or ineligible for, participation in federal, state, or COUNTY government contracts. CONTRACTOR certifies that it shall not contract with a subcontractor that is so debarred or suspended.
- B. This certification is a material representation of fact relied upon by COUNTY. If it is later determined that CONTRACTOR did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the California Governor's Office of Emergency Services and COUNTY, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- C. This Agreement is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such CONTRACTOR is required to verify that none of the CONTRACTOR, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

- D. CONTRACTOR must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- E. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

14. BYRD ANTI-LOBBYING AMENDMENT, 31 U.S.C. § 1352 (AS AMENDED).

CONTRACTOR shall file the required certification attached as Attachment A *Certification for Contracts, Grants, Loans, and Cooperative Agreement (Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (As Amended))*, which is incorporated herein by this reference. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

15. PROCUREMENT OF RECOVERED MATERIALS

- A. In the performance of this Agreement, CONTRACTOR shall make maximum use of products containing recovered materials that are EPA- designated items unless the product cannot be acquired—
 - i. Competitively within a timeframe providing for compliance with the contract performance schedule;
 - ii. Meeting contract performance requirements; or
 - iii. At a reasonable price.
- B. Information about this requirement, along with the list of EPA-designate items, is available at EPA’s Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

16. DOMESTIC PREFERENCES FOR PROCUREMENTS

- A. As appropriate and to the extent consistent with law, the CONTRACTOR should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subcontractor agreements.
- B. For purposes of this section:
 - i. “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the

application of coatings, occurred in the United States.

- ii. “Manufactured products” means items and construction materials composed in whole or in part of nonferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

17. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

- A. CONTRACTOR is prohibited from obligating or expending loan or grant funds to:
 - i. Procure or obtain;
 - ii. Extend or renew a contract to procure or obtain; or
 - iii. Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in [Public Law 115-232](#), section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
- B. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
- C. Telecommunications or video surveillance services provided by such entities or using such equipment.
- D. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.
- E. In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

22. CONTRACT WORK HOURS AND SAFETY STANDARDS - OVERTIME COMPENSATION

- A. Overtime requirements. No CONTRACTOR or subcontractor employing laborers or mechanics shall require or permit them to work over 40 hours in any workweek unless they are paid at least 1 and 1/2 times the basic rate of pay for each hour worked over 40 hours.
- B. Violation; liability for unpaid wages; liquidated damages. The responsible CONTRACTOR and subcontractor are liable for unpaid wages if they violate the terms in paragraph A. of this clause. In addition, the CONTRACTOR and subcontractor are liable for liquidated damages payable to the Government. The COUNTY will assess liquidated damages at the rate of \$10 per affected employee for each calendar day on which the employer required or permitted the employee to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the Contract Work Hours and Safety Standards statute (found at 40 U.S.C. chapter 37).
- C. Withholding for unpaid wages and liquidated damages. The COUNTY will withhold from payments due under the contract sufficient funds required to satisfy any CONTRACTOR or subcontractor liabilities for unpaid wages and liquidated damages. If amounts withheld under the contract are insufficient to satisfy CONTRACTOR or subcontractor liabilities, the COUNTY will withhold payments from other Federal or Federally assisted contracts held by the same CONTRACTOR that are subject to the Contract Work Hours and Safety Standards statute.
- D. Payrolls and basic records.
1. The CONTRACTOR and its subCONTRACTORs shall maintain payrolls and basic payroll records for all laborers and mechanics working on the contract during the contract and shall make them available to the Government until 3 years after contract completion. The records shall contain the name and address of each employee, social security number, labor classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. The records need not duplicate those required for construction work by Department of Labor regulations at 29 CFR 5.5(a)(3) implementing the Construction Wage Rate Requirements statute.
 2. The CONTRACTOR and its subCONTRACTORs shall allow authorized representatives of the COUNTY or the Department of Labor to inspect, copy, or transcribe records maintained under paragraph D.1. of this clause. The CONTRACTOR or subcontractor also shall allow authorized representatives of the COUNTY or Department of Labor to interview employees in the workplace during working hours.
- E. Subcontracts. The CONTRACTOR shall insert the provisions set forth in paragraphs A. through D. of this clause in subcontracts may require or involve the employment of laborers and mechanics and require subCONTRACTORs to include these provisions in any such lower-tier subcontracts. The CONTRACTOR shall be responsible for compliance by any subcontractor or lower-tier subcontractor with the provisions set forth in paragraphs "A" through "D" of this clause.

F. In the case of a conflict with California Prevailing Wage law, California Prevailing Wage Law shall apply.

**23. UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND
AUDIT REQUIREMENTS FOR FEDERAL AWARDS.**

Except as provided in the Assistance Listing available at <https://sam.gov/fal/7cecfdef62dc42729a3fdcd449bd62b8/view>, CONTRACTOR shall comply with the requirements of Title 2, Code of Federal Regulations, Part 200, which are hereby incorporated by reference in this Agreement.

CERTIFICATION FOR CONTRACTS, GRANTS, LOANS, AND COOPERATIVE AGREEMENTS

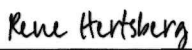
(Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (As Amended))

The undersigned CONTRACTOR certifies, to the best of his or her knowledge, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form- LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

CONTRACTOR certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, CONTRACTOR understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

DocuSigned by:

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11/7/2022 | 2:20 PM PST

Signature of CONTRACTOR's Authorized Official

Date

Rene Hertsberg Co-CEO & General Counsel

Name and Title of CONTRACTOR's Authorized Official