

**COUNTY OF KINGS
CALIFORNIA
DEPARTMENT OF PUBLIC WORKS**



**NOTICE TO CONTRACTORS
PROPOSAL, AGREEMENT
SPECIAL PROVISIONS**

HSIP CYCLE 10 SYSTEMIC FLASHING BEACONS PROJECT

County Bid No. 2023 – 50
County Project No. 133935
Standard Specifications Dated: 2022
Standard Plans Dated: 2022

Bid Opening Date: July 26, 2023

HSIP CYCLE 10 SYSTEMIC FLASHING BEACON PROJECT

THE SPECIAL PROVISIONS
CONTAINED HEREIN HAVE BEEN
PREPARED BY OR UNDER THE
DIRECTION OF THE FOLLOWING
REGISTERED ENGINEER:



Registered Civil Engineer



TABLE OF CONTENTS

| BID CONDITIONS | PAGE |
|--|---------------|
| NOTICE TO CONTRACTORS | 00 10 00-1-4 |
| INSTRUCTIONS TO BIDDERS | 00 20 00-1-4 |
| CONSTRUCTION AGREEMENT | 005000-1-5 |
| BONDS | |
| BIDDERS BOND | 00 43 13-1 |
| CERTIFICATE OF ACKNOWLEDGEMENT | 00 45 00-1 |
| CALIFORNIA PERFORMANCE BOND | 00 61 13-1-2 |
| CALIFORNIA PAYMENT BOND..... | 00 61 16-1-2 |
| MAINTENANCE BOND..... | 00 61 19-1-2 |
| BID PROPOSAL | |
| BID PROPOSAL | 00 42 00-1 |
| BID ITEMS..... | 00 42 00-3 |
| LIST OF SUBCONTRACTORS | 00 42 00-7 |
| NON-COLLUSTION AFFIDAVIT | 00 42 00-8 |
| SPECIAL PROVISIONS | |
| DIVISION I – GENERAL PROVISIONS | S-1 |
| DIVISION II – GENERAL CONSTRUCTION..... | S-9 |
| DIVISION III – GRADING | S-11 |
| DIVISION V – SURFACING AND PAVEMENTS..... | S-11 |
| DIVISION VIII – MISCELLANEOUS CONSTRUCTION..... | S-13 |
| DIVISION IX – TRAFFIC CONTROL FACILITIES | S-14 |
| TECHNICAL PROVISIONS | |
| SECTION 81 – MISCELLANEOUS TRAFFIC CONTROL DEVICES | TP-1 |
| SECTION 82 – SIGNS AND MARKERS | TP-1 |
| SECTION 84 – MARKINGS | TP-2 |
| SECTION 87 – ELECTRICAL SYSTEMS | TP-4 |
| GENERAL CONDITIONS | 00 72 00-1-33 |

BID CONDITIONS

HSIP CYCLE 10 SYSTEMIC FLASHING BEACONS PROJECT

SECTION 00 10 00 NOTICE TO CONTRACTORS

NOTICE IS HEREBY GIVEN that the County of Kings ("County") will receive sealed bids from contractors licensed in accordance with the provisions of the Public Contract Code for the furnishing of all labor, materials, equipment, transportation, and services for the performance of the following work:

HSIP CYCLE 10 SYSTEMIC FLASHING BEACONS PROJECT

in accordance with the Plans and Specifications thereof on file in the office of the Department of Public Works, County of Kings, 1400 W. Lacey Blvd., Hanford, California.

SCOPE OF WORK

The work to be done consists, in general, of furnishing and installation of flashing beacon assemblies at eight intersections within the County of Kings. Remove existing signs and posts as noted, install new signs and posts as directed in the plans. Remove existing pavement markings as outlined in the plans and install new pavement markings at the locations noted in the plans.

PLANS AND SPECIFICATIONS AVAILABLE:

Plans and Specifications and addenda for the work may be obtained at the Purchasing Division page of the Kings County website, [http:// www.countyofkings.com/purchasing/rfp/rfp.html](http://www.countyofkings.com/purchasing/rfp/rfp.html).

SEALED BIDS:

Bid Location: Sealed bids on the above project shall be filed with the **Purchasing Manager of the County of Kings at 1400 W. Lacey Blvd., Building No. 6, Hanford, California, 93230.**

Bid Date/Time: **On or before 2:00 p.m, local time, on July 26, 2023.** Said bids will be opened in public at or after 2:00 p.m. local time of said day in the office of the Purchasing Manager. Bids shall be submitted only on the forms provided thereof.

BIDDER'S BOND:

Bids must be accompanied by a bidder's bond approved by the County or a certified or cashier's check for at least 10 percent of the amount bid and made payable to the County of Kings, State of California. Said Bidder's Bond or certified or cashier's check shall be declared forfeited if the successful bidder refuses or neglects to enter into contract after being so requested by the County. Said Bond shall be obtained from an admitted surety company satisfactory to the County.

CONTRACTOR'S LICENSE REQUIRED:

The County will not consider or accept any bids from contractors who are not licensed to do business in the State of California and are in possession of a current Class A contractor's license.

If the license classification specified herein above is that of a "Specialty Contractor" as defined in Section 7058 of the Business and Professions Code, the specialty contractor awarded the Contract shall itself construct a majority of the Work in accordance with the provisions of the Business and Professions Code.

SUBCONTRACTOR'S LIST: Each bid filed shall set forth:

- a. The work to be performed and the name and the location of the place of business of each subcontractor who will perform work or labor or render services to the general contractor in or about the construction of the work or improvement, or a subcontractor licensed by the state of

HSIP CYCLE 10 SYSTEMIC FLASHING BEACONS PROJECT

California who, under contract with the general contractor, specifically fabricates and installs a portion of the work or improvement according to detailed drawings contained in the plans and specifications, in an amount in excess of 1/2 of 1 percent of the general contractor's total bid;

- b. The portion of the work which will be done by each subcontractor, as required by Section 4104 of the Public Contract Code; and
- c. All bids shall be submitted subject to the terms, conditions, and penalties of Sections 4100 through 4113 inclusive of the Public Contract Code.

BONDS AND INSURANCE REQUIRED:

- a. Performance and Maintenance Bond(s) - The successful bidder shall file with the County, at the time of execution of the Contract, a Performance Bond acceptable to the County in the full amount of the Contract Price, as security for the faithful performance of the Contract for the construction of the Work, and to cover all guarantees against defective workmanship or materials, or both, during the warranty period following the date of the final acceptance of the Work by the County.
- b. Payment Bond - The successful bidder shall file with the County, at the time of execution of the Contract, a Payment Bond acceptable to the County in the full amount of the Contract Price, as security for the payment of all persons supplying labor and materials for the construction of the Work.
- c. Form of Bonds - The Bonds shall be submitted on the bond forms contained in these Contract Documents or shall be in substantial compliance with same. Compliance shall be judged solely by the County of Kings.
- d. All bonds required, whether Bid, Performance, Payment, or Maintenance shall be issued by an admitted surety insurer. The Bid Bond and Payment Bond must be issued by the same admitted surety insurer. The Bonds required by these specifications will neither be accepted nor approved by the County unless the Bonds are underwritten by an admitted surety, the requirements of California Code of Civil Procedure section 995.630(a) and (b) are met, and the Bond is accompanied by the County Clerk's certificate as provided for in Code of Civil Procedure section 995.640(b). The County further reserves the right to satisfy itself as to the acceptability of the surety and the form of each bond. The bidder must submit, together with the Bonds, the following documents:
 - 1. The original, or certified copy, of the unrevoked appointment, power of attorney, bylaws, or other instrument authorizing the person who executed the bond to do so for and in behalf of the Owner.
 - 2. A certified copy of the certificate of authority of the insurer issued by the California Insurance Commissioner.
 - 3. A certificate from the County Clerk that the certificate of authority has not been surrendered, revoked, canceled, annulled, or suspended, or in the event that it has, that renewed authority has been granted.
 - 4. A financial statement of the assets and liabilities of the insurer to the end of the quarter calendar year prior to 30 days next preceding the date of the execution of the bond, in the form of an officer's certificate as defined in Section 173 of the California Corporations Code.

If the surety insurer is found not to be an admitted surety insurer, the bid shall be determined to be non-responsive and shall be rejected. If the surety insurer's assets do not exceed its liabilities

HSIP CYCLE 10 SYSTEMIC FLASHING BEACONS PROJECT

in an amount equal to or in excess of the amount of the bond as set forth in Section 12090 of the California Insurance Code, or if the bidder fails to provide the specified documents, the bid may be determined to be non-responsive and may be rejected.

- e. Power-of-Attorney - The Attorney-in-Fact who executes this bond on behalf of the Surety must attach a notarized copy of his or her power-of-attorney as evidence of his authority to bind the Surety on the date of execution of the bond.
- f. Surety - The Surety furnishing these bonds shall have a sound financial standing, a record of service satisfactory to the County of Kings, and be authorized to do business in the State.

The successful bidder shall be required to furnish certificates indicating that he or she carries adequate worker's compensation insurance and public liability and property damage insurance, which list the County as an additional insured.

SUBSTITUTION OF SECURITIES:

Bidders are hereby put on notice that the successful bidder may substitute securities for any monies withheld by County of Kings to insure performance of the Contract pursuant to Public Contracts Code Section 22300.

PREVAILING WAGE PROVISION:

- a. Pursuant to Labor Code Section 1770 et seq., each laborer or mechanic of contractor or any subcontractor engaged in work on the project under this contract shall be paid not less than the hourly wage rate of per diem wages set forth in the prevailing wage rate schedule published by the Director of Industrial Relations, regardless of any contractual relationship which may be alleged to exist between the contractor or any subcontractor and such laborers and mechanics.
- b. Any laborer or mechanic employed to perform work on the project under this contract, which work is not covered by any of the foregoing classifications, shall be paid not less than the prevailing rate of per diem wages specified herein for the classification which most nearly corresponds to the work to be performed by him.
- c. The foregoing specified prevailing wage rates are minimum rates only, and the contractor may pay any wage rate in excess of the applicable rate as contained in this contract.
- d. Pursuant to Labor Code Section 1775, the Contractor as a penalty to the Owner shall forfeit \$200.00 for each calendar day, or portion thereof for each worker paid less than the prevailing rate established by the Department of Industrial Relations for such work or craft in which the worker is employed. The difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which the worker was paid less than the prevailing wage rate shall be paid to each worker by the Contractor. NOTE: An error on the part of an awarding body does not relieve the Contractor from responsibility for payment of the prevailing rate of per diem wages or liability for any penalties pursuant to Labor Code Sections 1770, et seq..
- e. Copies of the applicable prevailing wage rates are available at the website of the California Department of Industrial Relations, <http://www.dir.ca.gov/OPRL/dprevagedetermination.htm>.
- f. Any or all portions of this Section shall not be applicable to the extent that Contractor is specifically exempted from said requirements by statute. However, in the event that Contractor is so exempted, Contractor shall provide the legal authority for the claimed exemption.

HSIP CYCLE 10 SYSTEMIC FLASHING BEACONS PROJECT

DEPARTMENT OF INDUSTRIAL RELATIONS REGISTRATION

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.

MISCELLANEOUS:

The County of Kings reserves the right to reject any or all bids or to waive any informality in any bid.

If this contract is awarded, then the Notice of Award shall be issued to the lowest responsible bidder within sixty (60) days following the bid opening.

Unless otherwise required by law, no bidder may withdraw his bid for a period of 60 days after the date the Board awards bid to the lowest responsible bidder. The Bid Bond shall be returned 60 days from the time the Award is made.

BY ORDER OF THE KINGS COUNTY BOARD OF SUPERVISORS, Hanford, California.

Original Signed

Richard Valle
Chairman, Kings County Board of Supervisors

Date of Publication: July 1 & 22, 2023

HSIP CYCLE 10 SYSTEMIC FLASHING BEACONS PROJECT

SECTION 00 20 00 INSTRUCTIONS TO BIDDERS

PREPARATION OF PROPOSAL:

The outside of the envelope in which the bid is submitted shall include the bidders name and be plainly marked:

HSIP CYCLE 10 SYSTEMIC FLASHING BEACONS PROJECT

Bids shall be made upon the forms included in these specifications and available at the Purchasing Division page of the Kings County website, <http://www.countyofkings.com/purchasing/rfp/rfp.html>. All items shall be filled in and the signatures of all persons signing shall be in longhand. Unless bids are submitted on these forms, they will not be considered by the Board. Each bidder shall write out the total amount of his or her bid in addition to inserting the same in figures.

Mistakes must be corrected, and the correction inserted. Corrections must be initialed in ink by the person presenting the proposal.

EXAMINATION OF CONTRACT DOCUMENTS:

The bidders shall carefully examine the Plans and Specifications, and satisfy themselves as to their sufficiency. The bidders shall not at any time after submission of the bids, dispute or complain of the Plans and Specifications, the directions explaining or interpreting them, or assert that there is any misunderstanding in regard to the location, extent, nature, or amount of work to be performed.

Should a bidder find discrepancies in, or omissions from, the Plans and Specifications, or should he or she be in doubt as to their meaning, he or she shall at once notify the Engineer, and should it be found that the point in question is not clearly and fully set forth, a written Addendum will be sent to all bidders and made a part of the contract. The Engineer will not be responsible for any oral instructions. No proposal will be considered which makes exceptions, changes, or reservations to the Plans or Specifications. Exceptions, explanations, or alternate proposals may be made on a separate sheet, attached to the proposal form. However they will not be considered in determining the low bid.

All questions shall be submitted in writing to Christopher Kelly, Engineer III at Christopher.Kelly@co.kings.ca.us Department of Public Works, County of Kings, 1400 West Lacey Boulevard, Hanford, California. Questions shall be submitted by 2:00 PM Pacific Time on July 20, 2023.

EXAMINATION OF PROJECT SITE:

Bidders shall examine the site and have full knowledge of all facilities and difficulties affecting the work which may not be set forth herein. No allowance shall subsequently be made because of lack of such examination or knowledge.

Bidders are presumed to have visited and inspected the site and familiarized themselves with the conditions there existing. The submittal of a bid shall be considered an acknowledgment on the part of the bidder of familiarity with the conditions at the construction site.

SUBCONTRACTOR LIST:

Pursuant to the provisions of Section 4104 of the Public Contract Code of the State of California, every bidder shall set forth in his or her bid the following:

HSIP CYCLE 10 SYSTEMIC FLASHING BEACONS PROJECT

- a. Subcontractor Information: The work performed, the name, and location of the place of business of each subcontractor who will perform work or labor or render services to the bidder in or about the construction of the work or improvement in an amount in excess of 1/2 of 1 percent of the bidder's total bid.
- b. Work Conducted by Subcontractor: The portion of the work which will be done by each subcontractor. If the bidder fails to specify a subcontractor for any portion of the work to be performed under the contract in excess of 1/2 of 1 percent of the bidder's total bid, he agrees to perform that portion himself. The successful bidder shall not, without the consent of the Owner, either:
 1. Substitute any person as subcontractor in place of the subcontractor designated in the original bid.
 2. Permit any subcontract to be assigned or transferred or allow it to be performed by anyone other than the original subcontractor listed in the bid.
 3. Other than in the performance of Change Orders, causing changes or deviations from the Contract, sublet, or subcontract any portion of the work in excess of 1/2 of 1 percent of the total bid as to which his original bid did not designate a subcontractor.

All bids shall be submitted subject to the terms, conditions, and penalties of Sections 4100 to 4113, inclusive, of said Public Contract Code, as AMENDED.

NON-COLLUSION AFFIDAVIT:

Bidders shall include with their bids a signed affidavit stating that their bid is not a sham or a collusive bid. The affidavit is to be signed exactly as worded, alternative wording will not be accepted. Notarization of signature is required. The affidavit is included with the Proposal.

BIDDER'S BOND:

Bids must be accompanied by a bidder's bond approved by the County of Kings or a certified or cashier's check for at least 10 percent of the amount bid and made payable to the County of Kings, State of California. Said bidder's bond shall be by an admitted surety insurer, cash, certified or cashier's check and shall be declared forfeited if the successful bidder refuses or neglects to enter into a contract after being requested to do so by the Kings County Board of Supervisors.

The Attorney-in-Fact who executes this bond in behalf of the Surety must attach a notarized copy of his power-of-attorney as evidence of his authority to bind the Surety on the date of execution of the bond. Where State Statute requires, certification by a resident agent shall also be provided.

If the Bidder elects to furnish a Bid Bond, he shall use the Bid Bond form contained in the Proposal, or one conforming substantially thereto in form and content, as determined by the County of Kings.

RETURN OF BID SECURITY:

Contractors submitting bids on this work agree that the Board may retain the bid security submitted with the bid for 60 days after the Board awards the bid to the lowest responsible bidder. Retained security will be returned 60 days after the bid is awarded or immediately in case all bids are rejected.

AWARD OF CONTRACT:

Within sixty (60) calendar days after opening of Proposals, the Board of Supervisors will accept one of the Proposals or will act in accordance with BASIS OF AWARD, below. The acceptance of the Proposal will

HSIP CYCLE 10 SYSTEMIC FLASHING BEACONS PROJECT

be by written Notice of Award, mailed to the office designated in the Proposal, or delivered to the lowest responsible bidder's representative. In the event of failure of the lowest responsible bidder to sign the Construction Agreement and provide an acceptable Performance Bond, Payment Bond, and insurance certificates, the County of Kings may award the contract to the next lowest responsible bidder. Such award, if made, will be made within 90 days after opening of Proposals.

TYPE OF PROPOSAL:

The Proposal for the work is to be submitted on a Lump Sum basis. Lump Sum amounts shall be submitted on all items of work set forth in the Proposal. All items required to complete the work specified or shown on the Plans, but not included in the Proposal shall be considered incidental to those set forth in the Proposal.

BASIS OF AWARD:

The contract will be awarded to the lowest single responsible bidder. However, the County of Kings reserves the right to reject any and all bids if deemed excessive and re-advertise for bids, provide for the work to be done by alternative means, or not construct the project at all. The County of Kings also reserves the right to waive any informality or irregularity in any bid.

The lowest single responsible bidder will be determined based on the lowest Lump Sum bid presented in the proposal. The County of Kings reserves the right to exercise any, or all, or none, of the alternatives detailed in the Proposal.

EXECUTION OF CONTRACT:

The successful bidder shall execute the contract in accordance with the proposal as accepted within 10 working days of the date of mailing the Notice of Award to him or her at his or her address given below and secure workmen's compensation and any other required insurance and bonds within said time. If the bidder should fail to do so, the certified or cashier's check or surety bond and the money payable thereon accompanying the bid, shall become the property of, and be retained by, the County of Kings as liquidated damages for such failure, provided that if the successful bidder shall execute the contract, secure workmen's compensation, and any other required insurance and bonds, his or her check or bid bond shall be returned to him or her within 10 days thereafter.

CONTRACT BONDS:

- a. Performance and Maintenance Bond(s) - The successful bidder shall file with the County, at the time of execution of the Contract, a Performance Bond acceptable to the County in the full amount of the Contract Price, as security for the faithful performance of the Contract for the construction of the Work, and to cover all guarantees against defective workmanship or materials, or both, during the warranty period following the date of the final acceptance of the Work by the County.
- b. Payment Bond - The successful bidder shall file with the County, at the time of execution of the Contract, a Payment Bond acceptable to the County in the full amount of the Contract Price, as security for the payment of all persons supplying labor and materials for the construction of the Work.
- c. Form of Bonds - The Payment Bond shall be submitted on the bond form contained in these Contract Documents or shall be in substantial compliance with same. Compliance shall be judged solely by the County of Kings.
- d. All bonds required, whether Bid or Payment, shall be issued by an admitted surety insurer. The Bid Bond and Payment Bond must be issued by the same admitted surety insurer. The Payment Bond required by these specifications will neither be accepted or

HSIP CYCLE 10 SYSTEMIC FLASHING BEACONS PROJECT

approved by the County unless the bond is underwritten by an admitted surety and unless the requirements of California Code of Civil Procedure section 995.630(a) and (b) are met and the bond is accompanied by the County Clerk's certificate as provided for in California Code of Civil Procedure section 995.640(b). The County further reserves the right to satisfy itself as to the acceptability of the surety and the form of each bond. The bidder must submit together with the Payment Bond, the following documents:

1. The original, or certified copy, of the unrevoked appointment, power of attorney, bylaws, or other instrument authorizing the person who executed the bond to do so for and on behalf of the bidder.
2. A certified copy of the certificate of authority of the insurer issued by the California Insurance Commissioner.
3. A certificate from the County Clerk that the certificate of authority has not been surrendered, revoked, canceled, annulled, or suspended, or in the event that it has, that renewed authority has been granted.
4. A financial statement of the assets and liabilities of the insurer to the end of the quarter calendar year prior to 30 days next preceding the date of the execution of the bond, in the form of an officer's certificate as defined in Corporations Code section 173.

If the surety insurer is found not to be an admitted surety insurer, the bid shall be determined to be non-responsive and shall be rejected. If the surety insurer's assets do not exceed its liabilities in an amount equal to or in excess of the amount of the bond, subject to Section 12090 of the Insurance Code, or if the bidder fails to provide the specified documents, the bid may be determined to be non-responsive and may be rejected.

- e. Power-of-Attorney - The Attorney-in-Fact who executes this bond in behalf of the Surety must attach a notarized copy of his or her power-of-attorney as evidence of his or her authority to bind the Surety on the date of execution of the bond.
- f. Surety - The Surety furnishing these bonds shall have sound financial standing, a record of service satisfactory to the County of Kings, and be authorized to do business in the State of California.

NOTICE TO PROCEED:

The successful bidder shall commence work within ten (10) calendar days after the receipt of the written Notice to Proceed or, if no such written Notice to Proceed is issued, within ten (10) calendar days from the date of execution of the Construction Agreement.

TIME FOR COMPLETION:

The successful bidder shall complete said work within **fifty (50) working days** from the date of commencement work as defined in the above paragraph "Notice to Proceed".

PERFORMANCE OF WORK:

The work shall be performed in a workmanlike, diligent, and expeditious manner with such force and materials as may be required, time being of the essence of the contract.

CONSTRUCTION AGREEMENT

HSIP CYCLE 10 SYSTEMIC FLASHING BEACONS PROJECT

CONSTRUCTION AGREEMENT

for

HSIP CYCLE 10 SYSTEMIC FLASHING BEACONS PROJECT

THIS AGREEMENT, is made entered into on _____, 2023 (the "Effective Date"), by and between the County of Kings, a political subdivision of the State of California ("Owner"), and _____ ("Contractor") (singularly a "Party" and collectively the "Parties).

R E C I T A L S

WHEREAS, the County requires construction of _____; and

WHEREAS,

In consideration of the covenants, promises and agreements to be made, kept and performed as set forth in this Agreement, the Parties agree as follows:

ARTICLE 1
THE CONTRACT DOCUMENTS

The complete Agreement between the Owner and Contractor consist of the following Contract Documents: The Notice to Contractors, the Bonds, the Instruction to Bidders, the Accepted Bid Proposal, all Addenda, this Construction Agreement, the General Conditions, Supplemental Conditions the Drawings and Specifications, Notice of Award, Notice to Proceed, Change Orders, Notice of Substantial Completion, Notice of Completion, and modifications incorporated in those documents. The Contract, Drawings, and Specifications are intended to supplement one another. A complete listing of the Contract Documents can be found in Article 9.

ARTICLE 2
THE WORK

Contractor shall furnish at its own cost and expense, all tools, equipment, apparatus, labor, materials, mechanical workmanship, transportation and services necessary to complete the construction of the **HSIP CYCLE 10 SYSTEMIC FLASHING BEACONS PROJECT**, in strict accordance with the Contract Documents. All such work shall be completed in a good and workmanlike manner.

ARTICLE 3
TIME FOR COMPLETION:

HSIP CYCLE 10 SYSTEMIC FLASHING BEACONS PROJECT

3.1 For the purpose of determining the contract completion date, the commencement is ten (10) calendar days after receipt of written Notice to Proceed, or, if a written Notice to Proceed is not issued, the commencement date is ten (10) calendar days from the date of this Agreement's Effective Date.

3.2 Contractor shall commence work under this Agreement on the date described in Paragraph 3.1, and Contractor shall diligently pursue and complete said work no later than **fifty (50) working days** from the commencement date.

ARTICLE 4
THE CONTRACT PAYMENT

4.1 In consideration of the covenants, agreements, and promises on the part of the Contractor contained in the Contract Documents, and the strict and literal fulfillment of each and every such covenant, agreement, and promise, and as compensation agreed upon for the erection, construction, and completion of the said work as described in Article 1, and in strict accordance with the Plans and Specifications, the Owner shall pay Contractor the Contract Sum of \$_____ in lawful money of the United States, subject to any additions or deductions as provided in the Contract Documents.

4.2 The Contract Sum is based upon the following alternates, if any, that are described in the Contract Documents and are hereby accepted by Owner:

ARTICLE 5
PROGRESS PAYMENTS

5.1 Contractor shall submit Applications for Payment monthly in a timely manner on or before the date mutually agreed upon by the Owner and Contractor. The Application for Payment form must be approved by Owner.

5.2 Owner shall pay Contractor Progress Payments once per month, on or about a date to be determined by Owner. The amount of each Progress Payment is determined by the percent of completion of each portion of work completed at the end of the month covered by the Application of Payment. Payment of undisputed contract amounts (progress payments) is contingent upon the Contractor furnishing the Owner with a release of all claims against the Owner arising by virtue of the work relating to the amount so paid. The release may be on the form used for computing monthly progress payment.

5.3 The progress payment amount shall be adjusted as set forth in Article 6 of the General Conditions.

ARTICLE 6

HSIP CYCLE 10 SYSTEMIC FLASHING BEACONS PROJECT

FINAL PAYMENT

6.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when 1) the Contract has been fully performed by the Contractor, and 2) a final Certificate for Payment has been issued by the Inspector. Such final payment shall be made by the Owner not more than 60 days after the recording of the Notice of Completion.

6.2 Pursuant to Public Contract Code Sections 7107 and 7201, in the event of a dispute between the Owner and Contractor, the Owner may withhold from the final payment an amount not to exceed 150 percent of the disputed amount. Except as so withheld, the Owner shall release the retention withheld within 60 days after the date of completion of the work of improvement, as "completion" is defined in Public Contract Code section 7107. In the event that retention payments are not made within the time periods required by Public Contract Code section 7107, the Owner shall be subject to the interest payment provisions of Public Contract Code section 7107.

ARTICLE 7 MISCELLANEOUS

7.1 Liquidated Damages, in the amount described in Paragraph 7.2, shall be imposed upon the Contractor should the Contractor fail to complete this contract and the work provided herein within the time fixed for such completion. Subject to Public Contract Code section 7203, the Contractor shall also become liable to the Owner for all loss and damage which the latter may suffer on account thereof.

7.2 IT IS HEREBY FURTHER AGREED, that in case the Contractor does not complete the work within the days as herein provided, for reasons or causes other than those provided for in the Contract Documents hereof, the Owner will be damaged. After considering such a breach and all aspects of the work including, but not limited to, the type of installation, the current and future uses of facilities and premises, the disarrangement of the premises and facilities thereof during the work, and the additional cost and difficulty of using the disarranged facilities during the work, the parties agree that a reasonable daily damage for such a breach, if any, will be **\$1,000.00** per calendar day and the payment of the same, if any, is payment of liquidating damages and not a penalty. It is understood that this agreement for liquidated damages is entered into because the amount is manifestly reasonable under the circumstances existing at the time of this agreement and it would be extremely difficult or impossible to determine with any degree of accuracy the actual damages in case of any such breach. In case of such breach, it is agreed that the Owner may deduct the amount thereof from any money due or to become due said Contractor under this contract.

7.3 Terms used in the Agreement which are defined in the General Conditions of the Contract shall have the meanings designated in those Conditions.

ARTICLE 8

HSIP CYCLE 10 SYSTEMIC FLASHING BEACONS PROJECT

TERMINATION OR SUSPENSION

8.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 10 of the General Conditions.

8.2 The Work may be suspended by the Owner as provided in Article 10 of the General Conditions.

ARTICLE 9
ENUMERATION OF CONTRACT DOCUMENTS

9.1 The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated as follows:

9.1.1 The agreement is this executed standard form of Construction Agreement.

9.1.2 The General Conditions are the General Conditions dated August 2019.

9.1.3 The Supplementary Conditions, and any other Conditions of the Contract are those detailed below:

| Document | Date | Pages |
|-----------------|-------------|--------------|
|-----------------|-------------|--------------|

9.1.4 The Specifications contained in the Contract Documents approved by the Kings County Board of Supervisors, as amended by addendum.

9.1.5 The Drawings contained in the Contract Documents approved by the Kings County Board of Supervisors, as amended by Addenda.

9.1.6 The Addenda, if any, are as follows:

| Number | Date |
|---------------|-------------|
|---------------|-------------|

9.1.7 Other documents, if any, forming part of the Contract Documents are as follows: those documents listed in Article 1.

ARTICLE 10
MISCELLANEOUS PROVISIONS

10.1 Headings in any contract document may be useful in the construction of ambiguous language, but are for convenience only and shall not be construed to extend the scope, meaning, or intent of the document or to control in the event of a direct conflict with any

HSIP CYCLE 10 SYSTEMIC FLASHING BEACONS PROJECT

express provision thereof. Wherever the context so requires, the neuter gender includes the feminine and masculine and vice versa, the singular includes the plural and vice versa, and the word "person" includes any jurisdictional person, including a corporation, partnership, firm, or association. "Shall," "will," and "agrees" are mandatory, and "may" is permissive. Any reference to term includes extensions of such term. Any word or phrase expressly defined by this Agreement shall carry the defined meaning unless the context unambiguously requires otherwise.

10.2 This Agreement, including each of the Contract Documents enumerated in Articles 1 and 9 and any exhibit thereto, shall constitute the entire Agreement between the parties, and shall not be modified, amended, altered, or changed except as provided for therein or otherwise by a written document signed by both parties. No verbal agreements or conversations prior to execution of this Agreement or requested Amendment shall affect or modify any of the terms or conditions of this Agreement unless reduced to writing according to the applicable provisions of this Agreement. The parties agree to execute such additional documents as may be necessary to carry out the intent and provisions of this Agreement.

10.3 Contractor shall prevent unauthorized disclosure of any of Owner's confidential information, and shall not use any confidential information shared with it for any purpose other than carrying out Contractor's obligations under this Agreement.

10.4 Contractor shall comply with all federal, state, and local laws and regulations applicable to its performance, including but not limited to prevailing wage laws and other labor and employment laws affecting wages, hours, and conditions of employment, licensing laws, safety regulations, and purchasing practices. Without limiting the generality of the foregoing:

10.4.1 Contractor represents that it, its employees, officers, and directors, and the immediate family members of its employees, officers, and directors, have no direct or indirect conflict of interest, which conflicts with the rendering of services under this Agreement; neither shall any such interest be acquired, and Contractor shall disclose any conflict of interest that may arise in writing to Owner. A "conflict of interest" includes any circumstance or activity that is likely to cause or encourage any of Owner's officers, employees, or agents to violate Part IV of Owner's Purchasing Policy, last revised March 5, 2019.

10.4.2 Contractor is knowledgeable of Government Code section 8350, et seq., regarding a drug free workplace, and shall abide by and implement its statutory requirements.

10.4.3 In rendering services under this Agreement, Contractor shall comply with all applicable federal, state, and local laws, rules, and regulations regarding nondiscrimination, and shall not discriminate based on age, ancestry, color, gender, marital status, medical condition, national origin, physical or mental disability, race, religion, or sexual orientation. Contractor shall not discriminate against its employees, which includes, but is not limited to, employment upgrading, demotion, transfer,

HSIP CYCLE 10 SYSTEMIC FLASHING BEACONS PROJECT

recruitment, recruitment advertising, layoff, termination, rates of pay, other forms of compensation, and selection for training including apprenticeship. Further, Contractor will include this provision in all of its subcontracts to perform work under this Agreement.

10.5 This Agreement, including any other Contract Documents enumerated herein in Articles 1 and 9 that must be executed by the Parties, may be executed simultaneously and in several counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.

10.6 Any language in this Agreement found to be ambiguous shall be construed in the manner that best effectuates the objects and purposes of the Agreement. This Agreement represents the contributions of both parties, who each have the opportunity to be represented by competent counsel, and it is expressly agreed and understood that the rule stated in Civil Code section 1654, that ambiguities in a contract should be construed against the drafter, shall have no application to the construction of this Agreement.

10.7 Each signatory to this Agreement represents that it is authorized to enter into this Agreement and to bind the party to which its signature represents.

10.8 Nothing in this Agreement may be construed to create, and the parties do not intend to create, an independent right of action in any third party.

10.9 This Agreement shall be governed in all respects by the laws of the state of California, wherein the Agreement has been executed and delivered.

10.10 Whenever this Agreement requires notice of any kind but fails to indicate the manner in which notice should be given and the person to whom it should be delivered, notice shall be given in writing by personal service or by prepaid first-class mail addressed as follows:

OWNER:
COUNTY OF KINGS

PUBLIC WORKS DIRECTOR

KINGS COUNTY GOVERNMENT CENTER

1400 W. LACEY BLVD.

CONTRACTOR:

HSIP CYCLE 10 SYSTEMIC FLASHING BEACONS PROJECT

HANFORD, CA 93230

If notice is given by personal delivery, notice is effective as of the date of personal delivery. If notice is given by mail, notice is effective as of three days following the date of mailing or the date of delivery reflected on a return receipt, whichever occurs first.

IN WITNESS WHEREOF, the Owner has caused this Agreement to be executed by the Chairman of the Board of Supervisors and the Contractor has executed this Agreement on the day and year first above written.

_____ OWNER:

_____ By

_____ CONTRACTORS:

_____ By

NOTE: If the Contractor executing this contract is a corporation, a certified copy of the By-Laws, or of the Resolution of the Board of Directors, authorizing the officers of said corporation to execute the contract and the bonds required thereby must be annexed thereto.

BONDS

HSIP CYCLE 10 SYSTEMIC FLASHING BEACONS PROJECT

SECTION 00 43 13
BIDDER'S BOND

We,

_____ as Principal, and

as Surety, are bound unto _____

as Owner (Obligee), in the penal sum of ten percent (10%) of the total amount of the bid of the Principal submitted to the Obligee for the work described below, for the payment of which sum we bind ourselves, jointly and severally,

THE CONDITION OF THIS OBLIGATION IS SUCH, THAT:

Whereas, the Principal is submitting a bid to the Obligee, for

HSIP CYCLE 10 SYSTEMIC FLASHING BEACONS PROJECT

for which bids are to be opened at the Office of the Purchasing Manager of the County of Kings, Kings County Government Center, 1400 West Lacey Boulevard, Building 6, Hanford, California, on or after **2:00 p.m., local time, on July 26, 2023.**

NOW, THEREFORE, if Principal is awarded the contract and, within the time and manner required under the specifications, after the prescribed forms are presented to him or her for signature, enters into a written contract in the prescribed form and in accordance with the bid, and files three bonds with the Obligee, one to guarantee faithful performance, another to remedy without cost any defects during the guarantee period and the third to guarantee payment for labor and materials as provided by law, then this obligation shall be null and void; otherwise it shall remain in full force.

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

Dated: _____, 20__

Principal

Surety

By:
Attorney-in-Fact

HSIP CYCLE 10 SYSTEMIC FLASHING BEACONS PROJECT

SECTION 00 45 00
CERTIFICATE OF ACKNOWLEDGMENT

State of California

County of Kings SS

On this _____ day of _____ in the year 20__ before me

_____, personally appeared

_____, personally known to me (or proved Attorney-in-Fact to me on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument as the Attorney-in-Fact of

_____, and acknowledged to me that he (she) subscribed the name of the said company thereto as surety, and his (her) own name as attorney-in-fact.

(SEAL)
Notary Public

HSIP CYCLE 10 SYSTEMIC FLASHING BEACONS PROJECT

SECTION 00 61 13
CALIFORNIA PERFORMANCE BOND

BOND NO.

AMOUNT: \$

KNOW ALL MEN BY THESE PRESENTS, that

of

hereinafter called the CONTRACTOR (Principal), and

a corporation duly organized and existing under and by virtue of the laws of the State of _____, hereinafter called the SURETY, and authorized to transact business within the State of California, as SURETY, are held and firmly bound unto **COUNTY OF KINGS** as OWNER (Obligee), in the sum of:

_____ DOLLARS (\$ _____),

lawful money of the United States of America, for the payment of which, well and truly be made to the OWNER, the CONTRACTOR and the SURETY bind themselves and each of their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents as follows:

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH THAT:

WHEREAS, the CONTRACTOR has executed and entered into a certain

Contract hereto attached, with the OWNER, dated _____, 20__, for:

HSIP CYCLE 10 SYSTEMIC FLASHING BEACONS PROJECT

NOW, THEREFORE, if the CONTRACTOR shall well and truly perform and fulfill all the undertakings, covenants, terms, conditions and agreement of said Contract during the original term of said Contract and any extensions thereof that may be granted by the Owner, with or without notice to the Surety, and during the life of any guaranty required under the Contract, and shall also well and truly perform and fulfill all the undertakings, covenants, terms, conditions and agreements of any and all duly authorized modifications of said Contract that may thereafter be made, then this obligation shall be void, otherwise the same shall remain in full force and virtue.

Whenever the Contractor shall be, and declared in default under the contract, the Owner having performed Owner's obligation thereunder, the Surety may promptly remedy the default, or shall promptly:

- (1) Complete the contract in accordance with its terms or conditions; or
- (2) Obtain a bid or bids for submission to Owner for completing the contract in accordance with its terms or conditions, and upon determination by Owner and Surety of the lowest responsible bidder, arrange for a contract between such bidder and Owner, and make available as work progresses (even though there should be a default or a succession of defaults under the contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the contract price.

Any suit under this bond must be instituted before the expiration of two (2) years from the date on which the final payment under contract falls due.

HSIP CYCLE 10 SYSTEMIC FLASHING BEACONS PROJECT

No right or action shall accrue on this bond to or for the use of any person or corporation other than the Owner named herein or the heirs, executors, administrators or successors of Owner.
IN WITNESS WHEREOF, the above parties bounded together have executed

this instrument this ___day of _____, 20___, the name and corporate seal of each corporate party being hereto affixed and those presents duly signed by its undersigned representative, pursuant to authority of its governing body.

CONTRACTOR

By _____(Seal)

Attest

SURETY

By _____(Seal)

Attest

The rate of premium on this bond is _____ per thousand.

Total amount of premium charged \$

* * * * *

HSIP CYCLE 10 SYSTEMIC FLASHING BEACONS PROJECT

SECTION 00 61 16
CALIFORNIA PAYMENT BOND

BOND NO.

AMOUNT: \$

KNOW ALL MEN BY THESE PRESENTS, that

of

hereinafter called the CONTRACTOR (Principal), and

a corporation duly organized and existing under and by virtue of the laws of the State of _____, hereinafter called the SURETY, and authorized to transact business within the State of California, as SURETY, are held and firmly bound unto **COUNTY OF KINGS** as OWNER (obligee), in the sum of:

_____ DOLLARS (\$_____),

lawful money of the United States of America, for the payment of which, well and truly be made to the OWNER, the CONTRACTOR and the SURETY bind themselves and each of their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents as follows:

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH THAT:

WHEREAS, the CONTRACTOR has executed and entered into a certain Contract hereto attached, with the OWNER, dated _____, 20__, for:

HSIP CYCLE 10 SYSTEMIC FLASHING BEACONS PROJECT

That, if said Contractor, his or its heir, executors, administrators, successors or assigns, or subcontractors, shall fail to pay any of the persons named in Civil Code Section 9100 or amounts due under the 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 Franchise Tax Board from the wages of employees of the Contractor and his subcontractors pursuant to Section 18664 of the Revenue and Taxation Code, with respect to such work and labor that the Surety or Sureties will pay for the same, in an amount not exceeding the sum specified in the bond, and also, in case suit is brought upon the bond, a reasonable attorney's fee, to be fixed by the court.

That, this bond shall inure to the benefit of any of the persons named in Civil Code Section 9100 as to give right of action to such persons or their assigns in any suit brought upon this bond.

Now, therefore, if the CONTRACTOR shall promptly make payment to all persons who supply labor and materials in the prosecution of work provided for in said Contract, and any and all duly authorized modifications of said Contract that may hereinafter be made, without notice to the Surety, then this obligation shall be void; otherwise the same shall remain in full force and virtue.

IN WITNESS WHEREOF, the above parties bounded together have executed this instrument this ____ day of _____, 20__, the name and corporate seal of each corporate party being hereto affixed and those presents duly signed by its undersigned representative, pursuant to authority of its governing body.

HSIP CYCLE 10 SYSTEMIC FLASHING BEACONS PROJECT

CONTRACTOR

By

Attest

SURETY

By _____ (Seal)

Attest

The rate of premium on this bond is \$ _____ per thousand.

Total amount of premium charged \$ _____.

* * * * *

HSIP CYCLE 10 SYSTEMIC FLASHING BEACONS PROJECT

SECTION 00 61 19
MAINTENANCE BOND

BOND NO.

AMOUNT: \$

KNOW ALL MEN BY THESE PRESENTS, that

of

hereinafter called the CONTRACTOR (Principal), and

a corporation duly organized and existing under and by virtue of the laws of the State of _____, hereinafter called the SURETY, and authorized to transact business within the State of California, as SURETY, are held and firmly bound unto **COUNTY OF KINGS** as OWNER (Obligee), in the sum of:

_____ DOLLARS (\$ _____),

lawful money of the United States of America, for the payment of which, well and truly be made to the OWNER, the CONTRACTOR and the SURETY bind themselves and each of their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents as follows:

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH THAT:

WHEREAS, the CONTRACTOR has executed and entered into a certain

Contract hereto attached, with the OWNER, dated _____, 20__, for:

HSIP CYCLE 10 SYSTEMIC FLASHING BEACONS PROJECT

NOW, THEREFORE, the condition of this obligation is such that if above bonded CONTRACTOR shall remedy without cost to the said OWNER any defects which may develop during a period of one year from the date of completion and acceptance of the work performed under said contract provided such defects are caused by defective or inferior materials or workmanship, then this obligation shall be void; otherwise it shall remain in full force and effect.

IN WITNESS WHEREOF, the above parties bounded together have executed

this instrument this ___ day of _____, 20__, the name and corporate seal of each corporate party being hereto affixed and those presents duly signed by its undersigned representative, pursuant to authority of its governing body.

HSIP CYCLE 10 SYSTEMIC FLASHING BEACONS PROJECT

CONTRACTOR

By _____(Seal)

Attest

SURETY

By _____(Seal)

Attest

The rate of premium on this bond is _____ per thousand.

Total amount of premium charged \$

* * * * *

BID PROPOSAL

HSIP CYCLE 10 SYSTEMIC FLASHING BEACONS PROJECT

SECTION 00 42 00
BID PROPOSAL

For

HSIP CYCLE 10 SYSTEMIC FLASHING BEACONS PROJECT

TO: Purchasing Manager
County of Kings
Hanford, California

Gentlemen:

Having carefully examined the Notice to Contractors, Instruction to Bidders, General Conditions, Supplemental Conditions, Specifications, Plans and form of the Construction Agreement for the **HSIP Cycle 10 Systemic Flashing Beacons Project**, and having examined the site of the work and conditions affecting it, the undersigned proposes to execute the complete work in full accordance with the plans and specifications for the sum quoted below.

BIDDER'S DECLARATION AND UNDERSTANDING:

In submitting this proposal, the undersigned understands and agrees that the Kings County Board of Supervisors, Hanford, California, shall and does reserve the right to reject any and all proposals, to accept other than the lowest proposal, and to waive any informality in any proposal.

The undersigned also understands and agrees that said Board reserves the right to accept or reject his or her proposal at any time within 60 days following the date the Board executes the contract with the lowest responsible bidder. The undersigned further understands and agrees that this proposal shall be valid and effective until the expiration of said period and that the certified or cashier's check or bidder's bond accompanying this proposal shall be valid and effective for a period of 90 days following the date the Board executes the contract with the lowest responsible bidder.

The undersigned has carefully examined the sites where the work is to be done, and in addition has carefully examined and is thoroughly familiar with said Drawings and Specifications, and is familiar with local conditions affecting the cost of the construction herein bid upon, and further understands that the County will not be responsible for any errors or omissions on the part of the undersigned in making this proposal.

In submitting this Bid, Bidder represents that:

(a) Bidder has examined copies of all the Bidding Documents and the following Addenda (receipt of all which is hereby acknowledged):

| Date | Number |
|-------|--------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

(b) Bidder has familiarized itself with the nature and extent of the Contract Documents, Work, site, locality, availability of labor, all local conditions, laws, and regulations that in any manner may affect cost,

HSIP CYCLE 10 SYSTEMIC FLASHING BEACONS PROJECT

progress, performance or furnishing of the Work, and has thoroughly examined the plans and specifications.

(c) Bidder has reviewed and checked all information and data shown or indicated on the Contract Documents. No additional information or data will be required by Bidder in order to perform and furnish the Work at the contract Price, within the contract Time, and in accordance with the other terms and conditions of the Contract documents, including specifically the provisions of the General Conditions.

(d) Bidder has correlated the results of all such observations with the terms and conditions of the Contract Documents.

(e) Bidder has given Owner written notice of all conflicts, errors, or discrepancies that it has discovered in the Contract Documents and the written resolution thereof by Owner is acceptable to Bidder.

EXECUTION OF CONTRACT AND NOTICE TO PROCEED:

The successful bidder shall execute the contract in accordance with the proposal as accepted, within 10 working days of the date of mailing the Notice of Award to him or her at his or her address as given below and secure workmen's compensation and any other required insurance and bonds within said time. If the bidder fails to do so, the certified or cashier's check or surety bond and the money payable thereon accompanying the bid shall become the property of, and be retained by, the Kings County Board of Supervisors as liquidated damages for such failure, provided that if said undersigned shall execute the contract, secure workmen's compensation, and any other required insurance and bonds, his or her check or bid bond shall be returned to him or her within 10 days thereafter.

TIME FOR COMPLETION:

The successful bidder shall complete said Base Bid work within fifty (50) working days from the date of commencement work as defined in the above paragraph "Notice to Proceed".

The undersigned understands and agrees that time of performance is of the essence of the contract.

The undersigned agrees, if awarded the contract for the work included in the Proposal as accepted, to commence work within 10 calendar days after the receipt of written Notice to Proceed or, if no such written Notice to Proceed is issued, within 10 calendar days from the date of execution of the Construction Agreement.

LIQUIDATED DAMAGES:

The undersigned further agrees that there may be deducted from this contract price the sum of **\$1,000.00 per calendar day** for each work day beyond the original contract completion time, excepting any extension obtained for cause.

BID BOND:

The certified or cashier's check, or bidder's bond accompanying this proposal is equal to 10 percent or more of the total sum or sums bid under the several bid proposals.

Enclosed find (check one):

- Bidder's Bond
- Certified Check
- Cashier's Check No.____in the amount of
for 10% of the bid amount

BID FORM

HSIP CYCLE 10 SYSTEMIC FLASHING BEACONS PROJECT

The undersigned agrees to perform all work within the time provided, assuming the obligation for the liquidated damages herein before specified, for the construction of the **HSIP Cycle 10 Systemic Flashing Beacons Project**, as indicated in the Drawings and Specifications, for the lump sum price of:

Base Bid:

| Item | Description | Unit Of Measure | Estimated Quantity | Unit Price (In Figures-\$) | Item Total (In Figures-\$) |
|------|--|-----------------|--------------------|----------------------------|----------------------------|
| 1 | Install Signing and Striping complete per plans | LS | 1 | \$ | \$ |
| 2 | Install R1-1 Sign with Solar Powered Flashing Beacon System complete | EA | 6 | \$ | \$ |
| 3 | Install W3-1 Sign with Solar Powered Flashing Beacon System complete | EA | 13 | \$ | \$ |

Base Bid:

\$ _____ DOLLARS (Figures)

\$ _____
(Words)

HSIP CYCLE 10 SYSTEMIC FLASHING BEACONS PROJECT

SIGNATURE:

The names of all persons interested in the foregoing proposal as principals are as follows:

The Contractor's license number of the undersigned is: _____

License Expires: _____

Department of Industrial Relations Registration Number: _____

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Company Name: _____

Business Address: _____

Mailing Address: _____

Telephone No.:(_____) _____ - _____

Signature of Bidder: _____

Date: _____, 20_____

No bid is valid unless signed by the person making the bid. If the party is an individual the same shall be signed by the individual; if the party is a partnership the name of the partnership shall be given and signed by one of the partners; if the same is a corporation the proposal bid must be signed for the corporation by its properly authorized officer or officers.

HSIP CYCLE 10 SYSTEMIC FLASHING BEACONS PROJECT

**NONCOLLUSION DECLARATION TO BE EXECUTED BY
BIDDER AND SUBMITTED WITH BID**

The undersigned declares:

I am the _____ of _____, the party making the foregoing bid.

The **bid is not made in the interest of, or on behalf of**, any undisclosed person, partnership, company, association, organization, or corporation. The bid is genuine and not collusive or sham . The bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid. The bidder has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or to refrain from bidding. The bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder. All statements contained in the bid are true. The bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof, to effectuate a collusive or sham bid, and has not paid, and will not pay, any person or entity for such purpose.

Any person executing this declaration on behalf of a bidder that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the bidder.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on _____[date], _____ [city], _____[state].

By: _____

The names of all persons interested in the foregoing proposal as principals are as follows:

Contractor's license number of the undersigned is _____ License Expires: _____

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
Company Name: _____

Business Address: _____

Mailing Address: _____

HSIP CYCLE 10 SYSTEMIC FLASHING BEACONS PROJECT

Telephone No.: _____

Signature of Bidder: _____

Date: _____, 20_____

No bid is valid unless signed by the person making the bid. If the party is an individual the same shall be signed by the individual; if the party is a partnership the name of the partnership shall be given and signed by one of the partners; if the same is a corporation the proposal bid must be signed for the corporation by its properly authorized officer or officers.

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of)

On _____ before me
_____) Notary Public

personally appeared _____
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I **certify** under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

(Seal)

SPECIAL PROVISIONS

COUNTY OF KINGS DEPARTMENT OF PUBLIC WORKS

SPECIAL PROVISIONS

The work embraced herein shall be done in accordance with the Standard Specifications dated 2022 and the Standard Plans dated 2022, of the Department of Transportation insofar as the same may apply and these special provisions.

In case of conflict between the Standard Specifications and these special provisions, the special provisions shall take precedence over and be used in lieu of the conflicting portions.

Amendments to the Standard Specifications set forth in these special provisions shall be considered as part of the Standard Specifications for the purposes set forth in Section 5, "Coordination and Interpretation of Plans, Standard Specifications and Special Provisions," of the Standard Specifications. Whenever either the term "Standard Specifications is amended" or the term "Standard Specifications are amended" is used in the special provisions, the indented text or table following the term shall be considered an amendment to the Standard Specifications. In case of conflict between such amendments and the Standard Specifications, the amendments shall take precedence over and be used in lieu of the conflicting portions.

ORGANIZATION

Special provisions are under headings that correspond with the main-section headings of the Standard Specifications. A main-section heading is a heading shown in the table of contents of the Standard Specifications.

Each special provision begins with a revision clause that describes or introduces a revision to the Standard Specifications as revised by any revised standard specification.

Any paragraph added or deleted by a revision clause does not change the paragraph numbering of the Standard Specifications for any other reference to a paragraph of the Standard Specifications.

^^

DIVISION I GENERAL PROVISIONS

1 GENERAL

Add to Section 1-1.01:

Wherever, in the special provisions and standard specifications, the words State of California, or State are used, they shall be understood to mean – The County of Kings, Located in Kings County, California; also sometimes referred to as “County”. Any reference therein to the State of California or a State agency, office or officer shall be interpreted to refer to the County or its corresponding agency, office or officer acting under this contract.

Wherever, in the special provisions and standard specifications, the words requirements, conditions, provisions and laws that are applicable to the State of California rather than the County of Kings – Said references shall be construed as references to any corresponding requirements, conditions, provisions

approximates percentage-wise the unit price or item total in the County of Kings' Final Estimate of cost.

If both the unit price and the item total are unreadable or otherwise unclear, or are omitted, the bid may be deemed irregular. Likewise if the item total for a lump sum item is unreadable or otherwise unclear, or is omitted, the bid may be deemed irregular unless the project being bid has only a single item and a clear, readable total bid is provided.

Symbols such as commas and dollar signs will be ignored and have no mathematical significance in establishing any unit price or item total or lump sums. Written unit prices, item totals and lump sums will be interpreted according to the number of digits and, if applicable, decimal placement. Cents symbols also have no significance in establishing any unit price or item total since all figures are assumed to be expressed in dollars and/or decimal fractions of a dollar. Bids on lump sum items shall be item totals only; if any unit price for a lump sum item is included in a bid and it differs from the item total, the items total shall prevail.

The foregoing provisions for the resolution of specific irregularities cannot be so comprehensive as to cover every omission, inconsistency, error or other irregularity which may occur in a bid. Any situation not specifically provided for will be determined in the discretion of the County of Kings, and that discretion will be exercised in the manner deemed by the County of Kings to best protect the public interest in the prompt and economical completion of the work. The decision of the County of Kings respecting the amount of a bid, or the existence or treatment of an irregularity in a bid, shall be final.

Replace the 1st paragraph in Section 3-1.04 with:

Submit any bid protest to the Department before contract award.

Replace the 1st paragraph in Section 3-1.05 with:

The successful bidder must furnish 3 bonds.

Replace the 3rd paragraph in Section 3-1.05 with:

2. Performance bond to guarantee the faithful performance of the contract. This bond must be at least equal to 100 percent of the total bid.

Add to Section 3-1.05

3. Maintenance bond to guarantee function and performance of installed equipment and workmanship. This bond must be equal to at least 100 percent of the total bid.

Delete Section 3-1.08

Replace Section 3-1.18 with:

3-1.18 CONTRACT EXECUTION

The successful bidder must sign the Contract form.

Deliver to the Department:

1. Signed Contract form
2. Contract Bonds
3. Documents identified in section 3-1.07
4. Documents identified in the Notice of Award

The Department must receive these documents before the 10th business day after the bidder receives the contract or as otherwise specified in the project documents.

Replace Section 8-1.08 with:

8-1.08 WEEKLY PROGRESS MEETINGS

You must attend weekly progress meetings, if scheduled and determined by the Engineer to be necessary. The meeting must be attended by your job foreman, safety officer, and representative of the subcontractors actively working or beginning to work at the time of the meeting. Payment for attending weekly progress meetings, if scheduled, is considered included in the various items of work involved.



9 PAYMENT

Add to Section 9-1.01

A prime contractor or subcontractor shall pay any subcontractor not later than 10 days of receipt of each progress payment in accordance with the provision in Section 7108.5 of the California Business and Professions Code concerning prompt payment to subcontractors. The 10 days is applicable unless a longer period is agreed to in writing. Any delay or postponement of payment over 30 days may take place only for good cause and with the agency's prior written approval. Any violation of Section 7108.5 shall subject the violating contractor or subcontractor to the penalties, sanction and other remedies of that section. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the prime contractor, deficient subcontract performance, or noncompliance by a subcontractor.

The agency shall hold retainage from the prime contractor and shall make prompt and regular incremental acceptances of portions, as determined by the agency, of the contract work, and pay retainage to the prime contractor based on these acceptances. The prime contractor, or subcontractor, shall return all monies withheld in retention from a subcontractor within 30 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the agency. Federal law (49CFR26.29) requires that any delay or postponement of payment over 30 days may take place only for good cause and with the agency's prior written approval. Any violation of this provision shall subject the violating prime contractor or subcontractor to the penalties, sanctions and other remedies specified in Section 7108.5 of the Business and Professions Code. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to the prime contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the prime contractor, deficient subcontract performance, or noncompliance by a subcontractor.

After acceptance of the contract pursuant to the provisions in Section 5 "Acceptance of Contract," of the Standard Specifications, the amount, if any, payable for a contract item of work in excess of the maximum value for progress payment purposes hereinabove listed for the item, will be included for payment in the first estimate made after acceptance of the contract.

No partial payment will be made for any materials on hand which are furnished but not incorporated in the work.

Delete Section 9-1.11

Replace Section 9-1.16F with:

The department shall withhold not more than 5 percent of the contract price until final completion and acceptance of the project.



DIVISION II GENERAL CONSTRUCTION

10 GENERAL

Replace Section 10-1.02A with:

10-1.02A GENERAL

Before obliterating any traffic stripes, pavement markings, and pavement markers to be replaced at the same location, reference the stripes, markings, and markers. Include limits and transitions with control points to reestablish the new stripes, markings, and markers.

Replace Section 10-1.03 with:

10-1.03 TIME CONSTRAINTS

Submit proposed product and manufacturer specifications to the Engineer within five (5) working days after issuance of the notice to proceed.

^^

12 TEMPORARY TRAFFIC CONTROL

Replace Section 12-1.04 with:

Payment for Temporary Traffic Control shall be included in the various line items of work. No separate payment will be made.

Add to Section 12-4.01:

The contractor shall conduct operations as to offer the least possible obstruction and inconvenience to the public. It shall also be the responsibility of the contractor to provide and maintain all facilities and means for public safety. Existing traffic patterns shall be maintained during construction.

Residents along the street shall be provided passage as far as practicable. Convenient access to driveways, houses, and buildings along the street shall be maintained and temporary crossings shall be provided and maintained in good condition.

The contractor shall furnish, erect, and maintain such fences, barriers, lights, and signs as are necessary to give adequate warning of any dangerous conditions to be encountered as a result thereof.

^^

13 WATER POLLUTION CONTROL

Replace the paragraph in Section 13-4.04 with:

Payment for job site management is included in the various items of work involved and no separate payment will be made.

^^

TECHNICAL PROVISIONS

HSIP CYCLE 10 SYSTEMIC FLASHING BEACONS PROJECT

TECHNICAL PROVISIONS

SIGNING, STRIPING, AND PAVEMENT MARKERS

All equipment, materials, and components for signing and striping, and the installation thereof, shall conform to the latest revised 2022 Caltrans Standard Plans, and Standard Specifications, Section 81, "Miscellaneous Traffic Control Devices," Section 82 "Signs and Markers", and Section 84, "Markings", unless otherwise noted in these Special Provisions and on the Plans. These Plans and Specifications are hereinafter referred to as State Standard Plans and State Standard Specifications.

All materials required for the completion of work as shown on the Plans shall be provided by the Contractor.

SECTION 81 - MISCELLANEOUS TRAFFIC CONTROL DEVICES

81-3 PAVEMENT MARKERS

81-3.02 Materials.

81-3.02E Epoxy Adhesive. Adhesive for raised pavement markers shall be rapid set type epoxy.

Removal of pavement markers shall be per Section 81-8.03B, "Remove Pavement Markers," of the State Standard Specifications.

81-3.04 Payment. Payment for pavement markers shall be included in the lump-sum price bid for signing and striping, and no additional compensation will be allowed therefor.

SECTION 82 – SIGNS AND MARKERS

82-3 ROADSIDE SIGNS

82-3.03 Construction. Relocated signs shall be installed using existing posts at new locations and shall be set at a minimum 30-inch depth and at a minimum 12-inch square portland cement concrete (PCC). The post depth of the concrete footing shall be sufficient to extend at least 6-inches below the bottom of the posts.

New signs shall be installed using metal posts set at a minimum of 30-inch depth in a minimum 12-inch square PCC, except as specified otherwise, the metal post shall be 2-inch square "Qwik Punch" posts. The length of the metal post shall be

HSIP CYCLE 10 SYSTEMIC FLASHING BEACONS PROJECT

sufficient to extend from the top of the sign to 30-inches below the top of the concrete footing and provide a 7-foot clearance between the finished grade and the bottom of the sign. The depth of the concrete footings shall be sufficient to extend at least 6-inches below the bottom of the posts. ¼-inch expansion paper shall be placed between the sign foundation and sidewalk.

Drill holes for bolts, threaded rods, or expansion anchorage devices drilled in existing concrete by a method that will not shatter the concrete adjacent to the holes.

Repair any spalling or chipping of concrete structures at contractor's expense.

Marker and delineators shall conform to the provision in Section 81, "Miscellaneous Traffic Control Devices."

82-3.04 Payment. Payment for signing work shall be included in the lump sum price bid for signing and striping, and no additional compensation will be allowed therefor.

SECTION 84 - MARKINGS

84-2 TRAFFIC STRIPES AND PAVEMENT MARKINGS

84-2.02 Materials.

84-2.02A General. Traffic stripes, pavement markings, crosswalks, and arrow markings shall be paint.

84-2.02C Paint. Traffic striping shall be paint including crosswalks, arrows and other pavement legends. Paint shall be ready-mixed rapid dry type.

Ready-mixed paints shall be suitable for use on either asphalt concrete or Portland cement concrete.

84-2.03 Construction.

84-2.03A General. The Contractor shall furnish the necessary control points for all striping and markings and shall be responsible for the completeness and accuracy thereof to the satisfaction of the Engineer.

The Contractor shall establish all traffic striping between these points by stringline or other method to provide striping that will vary less than ½-inch in 50-feet from the specified alignment.

HSIP CYCLE 10 SYSTEMIC FLASHING BEACONS PROJECT

When no previously applied figures, markings, or traffic striping are available to serve as a guide, suitable layouts shall be spotted in advance of the permanent paint application. Traffic lines may be spotted by using a rope as a guide for marking spots every 5-feet, by using a marking wheel mounted on a vehicle, or by any other means satisfactory to the Engineer.

The Contractor shall mark or otherwise delineate the traffic lanes in the new roadway or portion of roadway, or detour before opening it to traffic.

The Contractor shall provide an experienced technician to supervise the location, alignment, layout, dimensions, and application of the paint.

Spotting shall be completed prior to the removal of any existing stripes. Existing stripes and markings shall be removed prior to painting new stripes and markings, but in no case shall any section of street be left without the proper striping for more than 24 hours, or over weekends or holidays.

The installation of traffic stripes includes placement of raised pavement markers when called for on the plans.

Adhesive for raised pavement markers shall be per Section 81, "Pavement Markers."

Existing traffic stripes (including raised pavement markers), pavement legends, and markings that do not conform to the plans shall be removed by grinding method per Section 81-8.03B, "Remove Pavement Markers," and Section 84-9, "Existing Markings" of the State Standard Specifications.

84-2.04 Payment. Payment for installation and removal for striping details, pavement markings, and curb markings shall be included in the lump sum price bid for signing and striping, and no additional compensation will be allowed.

HSIP CYCLE 10 SYSTEMIC FLASHING BEACONS PROJECT

SPECIAL PROVISIONS

ELECTRICAL WORK AND SYSTEMS

SECTION 87 – ELECTRICAL SYSTEMS

87-7 Flashing Beacon Systems

Flashing Beacon System shall be solar powered 24-hour flashing beacon per model Carmanah R247-F of Carmanah Technologies or approved equal with perforated square pole mounted and single integrated solar engine and beacon, per manufacturer's specifications. Flashing beacon color as noted on plans.

PAYMENT

Payment for Solar Powered Flashing Beacon System and the installation thereof shall be included in the price bid per each Solar Powered Flashing Beacon as shown on the Plans, and no additional compensation will be allowed therefor.

GENERAL CONDITIONS

HSIP CYCLE 10 FLASHING BEACONS PROJECT

SECTION 00 72 00 GENERAL CONDITIONS (August 2019)

ARTICLE 1 GENERAL PROVISIONS

1.1 BASIC DEFINITIONS

1.1.1 Owner: The County of Kings is Owner and is identified as Owner in the Contract Documents.

1.1.2 Owner's Representative: Owner's designated representative or to an officer of the County of Kings as may otherwise be designated in the Supplemental Conditions.

1.1.3 Contractor: The person or entity identified as such in the Construction Agreement and referred to throughout the Contract Documents as if singular in number. The term Contractor means Contractor or Contractor's authorized representative.

1.1.4 Inspector: Owner or its agent employed as the inspector of the Work.

1.1.5 Subcontractor: Those contractors, of whatever tier, including manufacturers, dealers, or suppliers, whether general or special, furnishing labor or material, or both, for the Work under contract with Contractor. The singular includes the plural.

1.1.6 Substantial Completion: The stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so Owner can occupy or utilize the Work for its intended use.

1.1.7 Final Payment: The Final Payment shall be the last progress payment made to Contractor and shall not be considered to be the payment of any or all of the five percent (5%) retention or any amount withheld in the event of a dispute as provided in Section 7107 of the Public Contract Code or pursuant to a valid stop notice.

1.1.8 Field Order: A written order of Inspector directing Contractor to conduct minor changes in the Work involving neither extra cost nor extra time and being consistent with the scope and functioning of the Work.

1.1.9 Change Directive: A written order prepared by Inspector and signed by Owner directing a change in the Work and stating a proposed basis for adjustment, if any, of the Contract Time or Contract Price. Owner may, by Change Directive, without invalidating the Contract and without Contractor's agreement, unilaterally order changes in the Work. This procedure will be used in the absence of an agreement between Owner and Contractor and shall take effect upon the date signed by Owner or the date stated in the Change Directive, if different.

1.1.10 Change Order: A written order prepared by Inspector and signed by Owner and Contractor stating their agreement upon all of the following: 1) a change in the Work; 2) the amount of the adjustment in the Contract Price, if any; and 3) the extent of the adjustment in the Contract Time, if any.

1.1.11 Contract Documents: The Contract Documents shall include those documents set forth in Article 1 of the Construction Agreement. The Contract and the Contract Documents may be used

HSIP CYCLE 10 FLASHING BEACONS PROJECT

interchangeably.

1.1.12 Work: The construction and services required by the Contract Documents, including all labor, materials, equipment, and services provided or to be provided by Contractor to fulfill Contractor's obligations.

1.1.13 Plans: The graphic and pictorial portions of the Contract Documents showing the design, location, and dimensions of the Work, generally including but not limited to plans, elevations, sections, details, schedules, and diagrams.

1.1.14 Specifications: That portion of the Contract Documents consisting of the written requirements for materials, equipment, construction systems, standards, and workmanship for the Work, and performance of related services. Manufacturer installation instructions and recommendations shall be followed in the event they are more explicit or stringent than the requirements set forth in the Specifications.

1.1.15 Claim: A demand or assertion by Contractor seeking, as a matter of right, adjustment, or interpretation of Contract terms, payment of money, extension of time, or other relief with respect to the Contract Documents. Claims must be made by written notice and shall include a demand for Owner's decision. The responsibility to substantiate claims and to resolve the claims of Subcontractors of whatever tier shall rest with Contractor.

1.1.16 Guarantee Period: Contractor shall guarantee all materials and equipment furnished and Work performed for a period of one (1) year from the date of Notice of Completion.

1.2 CONTRACT DOCUMENTS

1.2.1 One Document: The Contract Documents are one document executed in multiple parts. All Work shown or mentioned therein shall be performed or furnished. Contractor understands, admits, and agrees that the Specifications exhibit the intent and purpose of Owner in regard to the Work, may or may not be complete in every detail, and are to be considered as evidence of Owner's purpose and intent only. Contractor further agrees to furnish all labor or material for any detail that is necessary to carry out the intent and purpose of the Specifications without extra charge. This includes, but is not limited to, Work referenced as "by others," which remains the responsibility of Contractor.

1.2.2 Misuse of Words or Punctuation: The misplacement, addition, or omission of any word, letter, or punctuation mark will not in any way change the intent or meaning of the Contract Documents. Any part of the work, or any article pertaining thereto which is not specifically set forth in the Contract Documents, but which is necessary for the proper completion of the Work, is to be supplied and set in place at Contractor's expense, the same as if it had been mentioned in the Contract Documents. Contractor shall furnish all things necessary to make a good and workmanlike job in accordance with the intent and purpose of the Contract Documents.

1.2.3 Precedence, Discrepancies, and Omissions: In resolving inconsistencies that may exist between any of the Contract Documents, precedence shall be given in the following order: 1) Construction Agreement, 2) Bid Proposal, 3) Notice to Contractors, 4) Instruction to Bidders, 5) Supplementary Conditions, 6) General Conditions, 7) Specifications, and 8) Plans. Properly executed Addenda, Field Orders, Change Directives, and Change Orders shall take precedence over all Sections referenced therein. Figure dimensions on Plans shall take precedence over scale dimensions and detail Plans shall take precedence over general Plans.

HSIP CYCLE 10 FLASHING BEACONS PROJECT

1.3 ASSIGNMENT OF CONTRACT

1.3.1 Mutual Consent: Neither party to the Contract shall assign the Contract without the written consent of the other party, nor shall Contractor assign any monies due or to become due to him or her without the written consent of Owner.

1.3.2 Assignment Under Anti-Trust Claims: In accordance with Section 4552 of the California Government Code, Contractor and Subcontractors shall conform to the following requirements:

In submitting a bid to Owner, the Bidder offers and agrees that if the bid is accepted, it will assign to Owner all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C Sec. 15) or under the Cartwright Act [Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code], arising from the purchases of goods, services, or materials by the Bidder for sale to Owner pursuant to the bid. Such assignment shall be made and become effective at the time Owner tenders Final Payment to the Bidder.

1.4 WAIVER OF "COMMON PRACTICE"

1.4.1 Contractor Waives Common Practice: Contractor waives "common practice" and "common usage" as construction criteria wherever the Contract Documents, statutes, or ordinances require greater quantity or better quality than common practice or common usage would require.

1.5 EXCESSIVE COSTS

1.5.1 Failure to comply with Contract: If Contractor fails to comply with any Contract requirement, including required coordination with other contractors or governmental agencies, and that failure results in additional work to Owner or Inspector, consultants, or other contractors, Contractor shall be liable for any additional costs incurred, directly or indirectly, by Owner from the resulting additional work. This section includes, but is not limited to, work related to failed inspections, Requests for Instructions (RFIs) for repairs, deviations from previously reviewed and accepted submittals, or deviations from the Contract Documents.

1.5.2 Construction Methods: If Contractor's construction methods and techniques result in additional costs to Owner, Contractor, upon written notice by Owner of unacceptable methods or techniques, shall be responsible for any and all costs attributable to said methods and techniques. This section includes, but is not limited to, Contractor's ability to coordinate or work with Owner or Inspector.

ARTICLE 2 OWNER

2.1 OWNER'S REPRESENTATIVE

2.1.1 Inspector is Owner's Representative: Owner will be represented by Inspector who shall see that the performance of the Work proceeds in strict accordance with the Contract Documents.

2.1.2 Owner May Appoint Another Inspector: Owner shall be entitled to appoint such other agent(s), as in Owner's opinion is duly qualified to carry out the duties of Inspector.

HSIP CYCLE 10 FLASHING BEACONS PROJECT

2.1.3 Communication through Inspector: In order that Owner may act upon expert advice and upon good procedure, all communications from Contractor will be through said Inspector and all communications and instructions from Owner to Contractor will be through said Inspector. All communications not in compliance herewith shall be considered non-binding on Owner. Owner reserves the right to alter this procedure without the consent of Contractor.

2.2 RIGHTS OF OWNER

2.2.1 Right to Clean Up: Subject to the strict prohibition against maintaining a nuisance, if a dispute arises between Contractor and Subcontractor as to responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, Owner may, but need not, clean up the premises and surrounding area and allocate the cost among those responsible as Owner determines to be just.

2.2.2 Right to Accept Imperfect Work: If any part or portion of the Work completed under this Contract is defective and not in accordance with the Contract Documents, and if the imperfection is judged by Owner to be not of sufficient magnitude or importance so as to make the Work unacceptable, Owner shall have the right and authority to retain such Work after making such deductions in the Contract Price as may be equitable and reasonable. Owner does not, however, waive any rights available under any other provision of the Contract Documents or otherwise available to Owner in law or equity.

2.2.3 Right to do Adjacent Work: Owner reserves the right to perform construction or operations on the site of the Work. In doing this, Owner may use its own forces or award separate contracts in connection with other construction or operations on the site but not covered by the Contract Documents. Contractor shall coordinate all activities on the site so as to avoid hindering, interfering with, or disturbing any other contractors or other workers performing Work on the site.

2.2.4 Right to Finish Contractor's Work: If Contractor defaults or neglects to carry out all or any part of the Work in accordance with the Contract Documents, Owner has the right, exercisable solely at Owner's discretion, to commence and continue completion of the Work with diligence and promptness as set forth in the Contract Documents.

2.2.5 Right of Partial Use of Project: Owner may occupy or use any completed or partially completed portion of the Work at any stage, upon agreement of Owner and Contractor.

2.2.5.1 Such partial occupancy or use may commence whether or not the portion is substantially complete, provided Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work, and insurance, and have agreed in writing concerning the period for completion of the Work and commencement of warranties required by the Contract Documents.

2.2.5.2 Consent of Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between Owner and Contractor or, if no agreement is reached, by decision of Inspector.

2.2.5.3 Immediately prior to such partial occupancy or use, Owner, Contractor, and Inspector shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

HSIP CYCLE 10 FLASHING BEACONS PROJECT

2.2.5.4 Unless otherwise agreed upon in writing, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

2.2.5.5 No claim for acceleration, delay, or hindrance, may be made by Contractor on his or her own behalf or that of any of his or her Subcontractors, for any delays, accelerations, or hindrances that may arise out of Owner's partial occupancy of the Project.

2.2.6 Right to Audit: Contractor shall maintain and make available to Owner all books, papers, job cost records, detailed cost estimates, claims, and accounts, including payment, property, payroll, personnel, Subcontractors, and financial records related to or which arise out of the Work or under terms of the Contract Documents. The form of record keeping shall be subject to approval by Owner. These books, papers, records, claims, and accounts shall be made available for examination during normal business hours by Owner and Inspector and shall be retained at Contractor's principal place of business in California for audit during normal business hours at such place of business for four (4) years after recording of the Notice of Completion of the Work or longer if required by law. Contractor shall provide an office to enable Owner and Inspector to conduct such audit.

2.3 RESPONSIBILITIES OF OWNER

2.3.1 Removal, Relocation, or Protection of Existing Main or Trunkline Utility Facilities: In accordance with the provisions of Section 4215 of the Government Code, Owner shall be responsible for the timely removal, relocation, or protection of existing main or trunkline utility facilities which are located on the site of the Work and which are not identified in the Plans and Specifications. If the existing main or trunkline work is not completed due to the failure of Owner to exercise reasonable care, Contractor shall be compensated for the costs of locating, removing, relocating, or repairing damage to such existing main or trunkline utility facilities not indicated in the Plans and Specifications with reasonable accuracy. Such compensation shall include the costs for equipment necessarily idled during such main or trunkline work. Contractor shall not be assessed liquidated damages for any delays in completion of the Work if caused by the failure of Owner or the owner of the utility to timely provide for the removal or relocation of such existing main or trunkline utility facilities.

Nothing in this Section shall be deemed to require Owner to indicate in the Plans and Specifications the presence of other existing utility service laterals or appurtenances whenever the presence of such utilities on the site can be inferred from the presence of other visible facilities, such as buildings, meter and junction boxes, on or adjacent to the site. Contractor retains the responsibility to verify the presence or absence of utilities by potholing, reviewing as-builts, or excavating prior to commencing Work.

2.3.2 Furnish Plans and Specifications: Owner shall be responsible for furnishing Contractor with an electronic copy of the Plans, Specifications, and any Addenda that may have been issued.

ARTICLE 3 **CONTRACTOR'S RESPONSIBILITIES**

3.1 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS

3.1.1 Reporting Errors in Contract Documents: Contractor shall carefully study and compare the Contract Documents with each other and shall at once report to Inspector any errors,

HSIP CYCLE 10 FLASHING BEACONS PROJECT

inconsistencies, omissions, or ambiguities discovered. If Contractor performs any construction activity knowing it involves a recognized error, inconsistency, omission, or ambiguity in the Contract Documents without such notice to Inspector, Contractor shall assume responsibility for such performance and shall bear all costs for correction.

3.1.2 Reporting Errors in Field Conditions: Contractor shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to Contractor with the Contract Documents before commencing Work. Any errors, inconsistencies, or omissions discovered shall be reported to Owner at once.

3.1.3 No Implied Warranty: No warranty is to be implied nor shall any warranty arise by operation of law, or by interpretation of the Contract Documents, that the Plans and Specifications are adequate and sufficient to construct the Work. Contractor understands and agrees that this section constitutes a waiver of the implied warranty of correctness in Plans and Specifications.

3.2 SUPERVISION AND CONSTRUCTION PROCEDURES

3.2.1 Supervision of Work: Contractor shall supervise and direct the Work using Contractor's best skill and attention. Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract Documents unless the Contract Documents give other specific instructions concerning these matters.

3.2.2 Acts of Employees and Agents: Contractor shall be responsible to Owner for acts and omissions of Contractor's employees, Subcontractor, their agents and employees, and any other persons performing portions of the Work under a contract with Contractor or under the direction of Contractor.

3.2.3 Inspector's Acts Do Not Waive Contractor's Obligation: Contractor shall not be relieved of any obligation to perform the Work in strict accordance with the Contract Documents either by activities or duties of Inspector in Inspector's administration of the Contract Documents, or by tests, inspections, or approvals required or performed by persons other than Contractor.

3.3 PROGRESSION OF WORK

3.3.1 Time of the Essence: It is expressly understood and agreed that the time of beginning, rate of progress, and time of completion of the Work are of the essence. The Work shall progress at such time and in or on such part or parts as may be required to complete the Work as set forth in the Contract Documents.

3.3.2 Construction Schedule: A construction schedule is required to be submitted as set forth in the Contract Documents. The schedule will be for Owner's information only. Silence or inaction with regard to Contractor's schedule shall not be construed as acquiescence or acceptance of the schedule as being binding on Owner. Unless specifically adopted by resolution or minute order of the Kings County Board of Supervisors, such schedule shall not be binding on Owner. Contractor's schedule shall provide for the completion date not to exceed the Contract Time and shall not provide for an earlier completion date unless otherwise agreed to in writing by Owner in accordance with the Contract Documents.

3.4 SUBMITTALS

HSIP CYCLE 10 FLASHING BEACONS PROJECT

3.4.1 Review of "or Equals:" In accordance with the provisions of Section 3400 of the Public Contract Code, Contractor shall, within thirty-five (35) calendar days after the Award of the Contract, submit all substitution requests and data substantiating any such requests for a substitution of an "or equal" item. Failure to submit substitution requests and substantiating data within thirty-five (35) days shall result in an automatic denial of the request for substitution.

3.4.2 Excessive Submittal Reviews: Owner shall be responsible for the costs associated with the first and second review of any submittals. Any and all costs incurred as a result of a submittal requiring more than two (2) reviews, including costs incurred by Owner's consultants or contractors for the handling, processing, and review of excessive submittals, shall be borne by Contractor, whether the submittal is from Contractor, Subcontractor, or any other individual providing goods or services on the Work. Owner reserves the right to withhold monies due to cover the costs of excessive submittals from any payment due to Contractor.

3.5 STATE LABOR REQUIREMENTS

3.5.1 Hours of Work:

3.5.1.1 Eight (8) hours of labor shall constitute a legal day's work and it is expressly stipulated that no worker employed at any time by Contractor or Subcontractor shall be required or permitted to work thereon more than eight (8) hours in any one (1) calendar day and/or more than forty (40) hours in any one (1) calendar week except as provided in Section 1815 of the Labor Code. It is further expressly stipulated that for each and every violation, Contractor shall forfeit, as a penalty to Owner under Section 1813 of the Labor Code, twenty-five dollars (\$25.00) for each worker employed in the execution of this Contract, or by any Subcontractor, for each calendar day during which said worker is required or permitted to labor more than eight (8) hours in any one (1) calendar day or more than forty (40) hours in any one (1) calendar week in violation of the provisions of the Labor Code.

3.5.1.2 In accordance with the provisions of the Labor Code, Contractor, and each Subcontractor, shall also keep an accurate record showing the names and actual hours worked for all workers employed by him or her in connection with the Work, which record shall be open at all reasonable hours to the inspection of Owner or its officers or agents, and to the Labor Commissioner, the Division of Labor Standards Enforcement or the Labor Commissioner's deputies or agents.

3.5.2 Apprentice Employment: Contractor or Subcontractor employing tradesmen in any apprenticeable occupation shall comply with the provisions of Section 1777.5 and 1777.6 of the Labor Code in the employment of apprentices.

3.5.3 Wage Rates:

3.5.3.1 Pursuant to Article 2, Section 1770 et seq. of the Labor Code, each worker of Contractor or Subcontractor engaged in the Work shall be paid not less than the hourly wage rate of per diem wages set forth in the prevailing wage rate schedule published by the Director of the Department of Industrial Relations, regardless of any contractual relationship which may be alleged to exist between Contractor or Subcontractor and such workers.

3.5.3.2 Any worker employed to perform the Work, which work is not covered by the

HSIP CYCLE 10 FLASHING BEACONS PROJECT

prevailing wage rate schedule, shall be paid not less than the prevailing rate of per diem wages specified herein for the classification which most nearly corresponds to the work to be performed by him or her.

3.5.3.3 The foregoing specified prevailing wage rates are minimum rates only and Contractor may pay any wage rate in excess of the applicable rate.

3.5.3.4 Pursuant to Section 1775 of the Labor Code, Contractor as a penalty to Owner shall forfeit two hundred dollars (\$200.00) for each calendar day, or portion thereof for each worker paid less than the prevailing rate established by the Department of Industrial Relations for such work or craft in which the worker is employed. The difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which the worker was paid less than the prevailing wage rate shall be paid to each worker by Contractor.

3.5.3.5 An error on the part of Owner does not relieve Contractor from responsibility for payment of the prevailing rate of per diem wages or liability for any penalties pursuant to Sections 1770 to 1775 of the Labor Code, inclusive.

3.5.3.6 Copies of the applicable prevailing wage rates are on file with the Kings County Director of Public Works, 1400 West Lacey Boulevard, Hanford, California, and are available to any interested party on request.

3.5.3.7 Monitoring of compliance with prevailing wage requirements shall be done by the Department of Industrial Relations. Contractor and Subcontractor must be registered with the Department of Industrial Relations as required under Section 1725.5 of the Labor Code and maintain compliance with any and all statutory, regulatory, or departmental policies or procedures concerning said compliance.

3.5.4 Certified Payroll: As required under the provisions of Section 1776 of the Labor Code, Contractor and Subcontractor shall keep accurate payroll records:

3.5.4.1 The payroll records shall show the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee by him or her in connection with the Work.

3.5.4.2 A certified copy of all payroll records enumerated above shall be available for inspection at all reasonable hours at the principal office of Contractor as follows:

a. Made available or furnished to the employee or his or her authorized representative on request.

b. Made available for inspection or furnished upon request to Owner, Inspector, the Division of Labor Standards Enforcement, and the Department of Industrial Relations.

c. Made available upon request by the public for inspection or copies thereof made; provided, however, that a request by the public shall be made through either Owner, Inspector, the Division of Labor Standards Enforcement, or the Department of Industrial Relations. The requesting party shall, prior to being provided the

HSIP CYCLE 10 FLASHING BEACONS PROJECT

records, reimburse the costs of preparation by Contractor, Subcontractor, and the entity through which the request was made. The public shall not be given access to the records at the principal office of Contractor.

3.5.5 Discrimination in Employment: In accordance with the provisions of Section 12940 of the Government Code and Section 1735 of the Labor Code, neither Contractor nor Subcontractor shall be discriminate in their employment of persons.

3.5.6 Convict Made Materials: Except as may be provided by law, Contractor agrees that no materials manufactured or produced in a penal or correctional institution shall be incorporated in the Work.

3.5.7 Statutory Exemptions: Any or all portions of this Section shall not be applicable to the extent that Contractor is specifically exempted from said requirements by statute. However, in the event that Contractor is so exempted, Contractor shall provide the legal authority for the claimed exemption.

3.6 TAXES

3.6.1 Contractor Pays Taxes: Contractor and Subcontractor shall pay all local, state, and federal taxes upon labor or materials involved in their part of the Work, which shall be included in the Contract Price.

3.7 COMPLIANCE WITH LAW AND LOCAL REQUIREMENTS

3.7.1 Regulations: Contractor and Subcontractor shall conform to and abide by any and all city, county, and state laws, ordinances, rules, and regulations, applicable to the Work. The Work shall be constructed in accordance with the standards and policies relating to energy efficiency, which are contained in the state energy conservation plan as issued in compliance with the Energy Policy and Conservation Act (Pub.L. 94-163).

3.7.2 Permits, Licenses, and Fees: Contractor shall give all notices and shall procure and pay for all permits, licenses, and inspection fees that may be required to commence, carry on, and complete the Work.

3.7.3 Patent Rights, Copyrights, Trade Names, and Royalties: Contractor shall indemnify and hold harmless Owner and all persons acting under him or her for all liability on account of any patent rights, copyrights, or trade names which may affect the articles or materials or their application under the Contract Documents. Contractor shall pay all royalties, or other charges that may arise, due to methods, types of construction, processes, materials, or use of equipment, and shall hold Owner harmless from any charges whatsoever which may arise, and shall furnish written assurance, satisfactory to Owner, that such charges have been paid.

3.8 GUARANTEE

3.8.1 Final Guarantee: Contractor warrants and guarantees for the Guarantee Period that the Work is free from all defects due to faulty materials or workmanship and Contractor shall promptly make such corrections as may be necessary, including repairs of any damage to other parts of the Work or other parts of Owner's property, real or personal, resulting from such defects. Owner will give notice of observed defects with reasonable promptness. In the event that Contractor should fail to make such repairs, adjustments, or other Work that may be made necessary by

HSIP CYCLE 10 FLASHING BEACONS PROJECT

such defects, Owner may do so and charge Contractor the cost thereby incurred. The Maintenance Bond shall remain in full force and effect through the Guarantee Period.

3.8.2 Environmental and Toxics Warranty: The covenants, warranties, and representations contained in this Section will be effective on the date of recording of the Notice of Completion and will survive completion of the Work. Contractor covenants, warrants, and represents to Owner that:

3.8.2.1 No litigation is pending or, to Contractor's knowledge, proposed, threatened, or anticipated with respect to Contractor, or with respect to any other matter affecting the Work.

3.8.2.2 To Contractor's knowledge after due inquiry, no asbestos-containing materials were installed or were discovered in the Work at any time. If any such materials were discovered, Contractor made immediate disclosure to Owner.

3.8.2.3 To Contractor's knowledge after due inquiry, no electrical transformers, light fixtures with ballasts, or other equipment containing PCBs are or were located at the Work site at any time. If any such materials were discovered, Contractor made immediate disclosure to Owner.

3.8.2.4 To Contractor's knowledge after due inquiry, no storage tanks for gasoline or any other toxic substance are or were located at the Work site at any time. If any such materials were discovered, Contractor made immediate disclosure to Owner.

3.8.2.5 Contractor's operations concerning the Work were not and are not in violation of any applicable environmental federal, state, or local statute, law or regulation dealing with hazardous materials substances or toxic substances, and no notice from any governmental body has been served upon Contractor claiming any violation of any such law, ordinance, code, regulation, or order, or requiring or calling attention to the need for any work, repairs, construction, alteration, or installation on or in connection with the Work in order to comply with any such laws, ordinances, codes, regulations, or order with which Contractor has not complied. If there are any such notices with which Contractor has complied, Contractor shall provide Owner with copies thereof.

3.8.2.6 Contractor shall indemnify Owner as set forth in Section 3.10.

3.9 WARRANTY

3.9.1 Contract Warranty: Contractor warrants to Owner that materials and equipment furnished for the Work will be of good quality and new, unless otherwise required or permitted by the Contract Documents, that the Work will be free from defects or flaws and is of the highest quality of workmanship, and that the Work will conform with the requirements of the Contract Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, shall be considered defective.

3.10 INDEMNIFICATION

3.10.1 Owner Not Liable for Damages: Owner shall not in any way or manner be answerable or suffer loss, damage, expense, or liability for any loss or damage that may happen to the Work, or part thereof, or in or about the same during its construction and before acceptance and that

HSIP CYCLE 10 FLASHING BEACONS PROJECT

Contractor shall assume all liabilities of every kind or nature arising from the Work, either by accident, negligence, theft, vandalism, or any causes whatever. Contractor shall hold Owner, its officials, officers, employees, and agents harmless from all liability of every kind and nature arising from accident, negligence, or any cause whatever, except the active, sole negligence of Owner its officials, officers, employees, and agents.

3.10.2 Owner not Liable for Debts: Indebtedness incurred for any cause in connection with this Work must be paid by Contractor and Owner is hereby relieved at all times from any indebtedness or claim other than the Contract Price.

3.10.3 Contractor Responsible for Accident, Damage, etc.: To the fullest extent permitted by law, Contractor shall be responsible for any and all loss, accident, neglect, injury or damage to person, life, or property which may be the result of, caused by, or arise out of his performance of the Work.

3.10.4 Contractor Indemnifies Owner: Contractor shall indemnify Owner, Inspector, and their officials, officers, employees, and agents and hold them free, safe, and harmless of, from, and against any and all liability, claims, losses, damages, or expenses, including reasonable attorneys' fees, arising from all acts or omissions of Contractor or its officers, agents, employees, contractors, or Subcontractor in rendering services under the Contract Documents, except for any liability, claims, losses, damages, or expenses arising from the sole negligence or willful acts of Owner, its officials, officers, employees and agents.

3.10.4.1 Contractor shall defend or, at Owner's sole option, reimburse Owner upon demand for all reasonable costs and expenses, including attorneys' fees, which Owner may incur in resisting any claim which may be made against Owner for any injury or damage to any person or property.

3.10.4.2 In any and all claims against Owner or Inspector or their officials, officers, employees and agents, by any employee of any Subcontractor, anyone directly or indirectly employed by any of them, or anyone for those acts any of them may be liable, the indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts. Upon demand, Contractor shall defend any suits or actions arising from such claims.

3.10.5 Environmental Indemnification: From and after recording of Notice of Completion, Contractor shall indemnify, defend, and save harmless Owner, its officials, officers, employees and agents from all losses or damages resulting from injury to or death of any person and damage to property, and any fine, which is occasioned by or arises out of any breach of the Environmental and Toxics Warranty, representations, or covenants of Contractor under the Contract Documents. Contractor further agrees to indemnify and hold harmless Owner, its officials, officers, employees, and agents from and against any and all liability as follows:

3.10.5.1. All foreseeable and unforeseeable incidental, consequential, or special damages, directly or indirectly arising out of the use, generation, storage, or disposal of hazardous materials by Contractor; and

3.10.5.2. The cost, without limitation, of any required or necessary repair, cleanup, or detoxification and the preparation of any closure or other required Plans, whether such action is required or necessary prior to or following filing of the Notice of Completion to the

HSIP CYCLE 10 FLASHING BEACONS PROJECT

full extent that such action is attributable, directly or indirectly, to the presence or use, generation, storage, release, threatened release, or disposal of hazardous materials by any person regarding the Work prior to filing of the Notice of Completion. Contractor's obligations pursuant to the foregoing indemnity shall survive the filing of Notice of Completion.

3.10.5.3. This Section shall survive the termination of the Contract and shall remain in full force and effect notwithstanding completed performance by Contractor under the Contract Documents.

3.10.5.4. The foregoing duties of indemnity shall not apply to loss, damage, expense, or liability caused solely by the negligence, or willful misconduct of Owner or Owner's officials, officers, employees, or agents.

3.11 WORK REQUIREMENTS

3.11.1 Conduct of Work: Contractor shall confine the storage of his or her equipment and materials to limits as designated by Inspector. Contractor shall at all times exercise due caution and provide all necessary barricades and other safety equipment around the Work to protect the public from injury to person and property during the entire time of performance of the Work. Contractor shall not create excessive dust or noise.

3.11.2 Maintenance of Site: Strict prohibition against committing nuisances in or about the Work shall be maintained and Contractor shall not in any way obstruct or interfere with movements of traffic on any public highway or public right of way without first obtaining the necessary approval of the proper public agency.

3.11.3 Clean Up of Site: Contractor shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations in performance of the Work. At completion of the Work, Contractor shall remove from and about the Work site waste materials, rubbish, tools, construction equipment, machinery and surplus materials. If Contractor fails to clean up, Owner may do so and the cost thereof shall be charged to Contractor.

3.11.4 Cutting and Patching:

3.11.4.1. Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly.

3.11.4.2. Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of Owner or separate contractors by cutting, patching, or otherwise altering such construction or by excavation. Contractor shall not cut or otherwise alter such construction by Owner or a separate contractor except with written consent of Owner and of such separate contractor, which shall not be unreasonably withheld. Contractor shall not unreasonably withhold from Owner or a separate contractor Contractor's consent to cutting or otherwise altering the Work.

3.12 SUBCONTRACTORS

3.12.1 Contractor Responsible for Subcontractor's Acts: Contractor shall be fully responsible to Owner for the acts and omissions, including negligence, of his or her Subcontractor, and of persons either directly or indirectly employed by them, as he or she is for the acts, omissions, or

HSIP CYCLE 10 FLASHING BEACONS PROJECT

negligence of persons directly employed by Contractor.

3.12.2 Contractor's Subcontracts: Contractor shall cause appropriate provisions to be inserted in all subcontracts relative to the Work to pass through and bind Subcontractor to the terms of the Contract Documents.

3.13 SUPERINTENDENT

3.13.1 Superintendent: Contractor will employ and maintain on the Work site a qualified Superintendent who shall have been designated in writing by Contractor as Contractor's representative at the site. Superintendent shall have full authority to act on behalf of Contractor and all communications given to Superintendent shall be as binding as if given to Contractor. Superintendent shall be present on the site at all times as required to perform adequate supervision and coordination of the Work.

3.13.2 Right to Demand Removal and Substitution of Superintendent: Due to the importance of Superintendent to the timely and efficient completion of the Work, Owner reserves the right to request or demand the removal and substitution of Superintendent if deemed necessary by Owner to continue or improve the Work. Owner shall exercise said right by providing written notice to Contractor with a date by which Superintendent should or must be removed and substituted. Failure by Contractor to replace Superintendent as and when requested by Owner may be considered a material breach.

3.14 LABOR AND MATERIALS

3.14.1 Skilled Labor: All labor must be especially skilled for each type of the Work and must be thorough and first class in all respects. Any person whom Inspector or Owner may deem incompetent or disorderly shall be promptly removed from the Work site and not allowed to return in any capacity.

3.14.2 Quality of Materials: All materials used on the Work shall be new and the best market quality, unless specified or shown otherwise. The Work shall be done in the best, most thorough, substantial and workmanlike manner and without flaws. All material and labor shall be subject to the approval of Inspector as to its quality and fitness and shall be immediately removed if it does not meet with his or her approval. Inspector may refuse to issue any certificate or payment until all defective materials or work have been removed and other material of proper quality substituted therefor. All removal and replacement with same shall be done at Contractor's expense. Manufactured articles, materials, and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned as directed by the manufacturer.

ARTICLE 4 **ADMINISTRATION OF CONTRACT**

4.1 INSPECTOR'S ADMINISTRATION OF CONTRACT

4.1.1 Contract Communications: Unless otherwise provided in the Contract Documents or when direct communications have specifically been authorized, all parties shall communicate through Inspector. Communications by and with Subcontractor and material suppliers shall be through Superintendent. Communications by and with separate contractors, architects, or engineers shall be through Inspector.

HSIP CYCLE 10 FLASHING BEACONS PROJECT

4.1.2 Inspections: Inspections shall be carried on by Inspector or as otherwise designated by Owner. Inspector shall see that the Work and intent of the Contract Documents is carried out in its entirety.

4.1.3 Inspector Does Not Control Work: Inspector will not have control over or charge of and will not be responsible for construction means, methods, techniques, sequences, or procedures or for safety precautions and programs in connection with the Work, since these are solely Contractor's responsibility. Inspector will not be responsible for Contractor's failure to carry out the Work in accordance with the Contract Documents. Inspector will not have control over or charge of and will not be responsible for the acts, omissions, or negligence of Contractor, Subcontractor, or their agents or employees, or of any other persons performing portions of the Work.

4.1.4 Inspector Recommends Payments: Based on Inspector's observations and evaluations of Contractor's Applications for Payment, Inspector will review amounts due Contractor and will recommend to Owner payments to Contractor as set forth in Section 6.6.

4.1.5 Inspector's Authority: Inspector will have the authority to stop the Work whenever necessary to ensure proper execution of the Work. Inspector will also have authority to reject Work which does not conform to the Contract Documents. Whenever Inspector considers it necessary or advisable for implementation of the intent of the Contract Documents, Inspector will have the authority to require additional inspections or testings of the Work in accordance with Section 4.2 whether or not such Work is fabricated, installed, or completed. However, neither this authority nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of Inspector to Contractor, Subcontractor, material and equipment suppliers, their agents or employees, or other persons performing portions of the Work.

4.2 INSPECTION AND TESTING

4.2.1 Advance Notice: Contractor shall notify Inspector twenty-four (24) hours prior to any day in which Contractor will require an inspection of any portion of the Work, work in excess of eight (8) hours, or anytime Contractor intends to work weekends. Any Work not performed subject to inspection will not be accepted and will be rejected and/or ordered removed by Inspector.

4.2.2 Access to Work: Inspector will at all times have access to the Work. In addition, authorized representatives and agents of any participating Federal, State, or local agency shall be permitted to inspect all Work, materials, payroll, records on personnel, invoices of materials, and other relevant data and records. Contractor will provide proper facilities for such access and observation of the Work and also for any inspection or testing thereof.

4.2.3 Costs of Tests: Owner shall bear all costs related to testing for conformance of the Work to the Contract Documents. However, if Contractor has called for testing and that test fails, subsequent tests, and all related costs, shall be borne by Contractor.

4.2.4 Inspector Prepares Change Directives/Orders: Inspector will prepare Change Orders and Change Directives and may authorize minor changes in the Work as provided in Article 5.

4.3 CLAIMS

4.3.1 The provisions of this Section are intended to implement Section 9204 of the Public Contract Code, the provisions of which are incorporated herein by reference.

HSIP CYCLE 10 FLASHING BEACONS PROJECT

4.3.2 Concealed or Unforeseen Conditions: If conditions are encountered at the Work site which are subsurface or otherwise concealed physical conditions, which differ materially from those indicated in the Contract Documents, or which are unknown physical conditions of an unusual nature, which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, notice by the observing party shall be given to the other party promptly before conditions are disturbed and in no event later than five (5) days after first observance of the conditions. Inspector will promptly investigate such conditions and, if they differ materially and cause an increase or decrease in Contractor's cost of, or time required for, performance of any part of the Work, will recommend an equitable adjustment in the Contract Price or Contract Time, or both. If Inspector determines that the conditions at the Work site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, Inspector shall notify Owner and Contractor in writing, stating the reasons. Claims by either party in opposition to such determination must be made within five (5) days after Inspector has given notice of the decision. If Owner and Contractor cannot agree on an adjustment in the Contract Price or Contract Time, the adjustment shall be referred to Inspector for initial determination, subject to further proceedings pursuant to Section 4.4.

4.3.3 Submission of Claims: All disputes, except for tort claims, must be submitted by Contractor as a Claim. Claims by Contractor, including, but not limited to, Claims by Subcontractor, not addressed in Section 4.3.2, must be made within twenty-one (21) days after occurrence of the event giving rise to said Claim, except Claims made due to delays or hindrances which Contractor alleges were caused by Owner shall be made within ten (10) days after occurrence of the event giving rise to said Claim. Claims must be made by written notice and contain any and all documentation necessary to support the amount requested. Claims must be submitted to Inspector by registered mail or certified mail, return receipt requested. Failure to make a Claim in writing in the time and manner as set forth herein or failure to provide supporting documentation shall bar Contractor from recourse for said Claim and constitute a waiver by Contractor of the subject matter(s) of the Claim. All Claims must be submitted on or before the payment date of the Final Payment.

4.3.4 Claims for Additional Costs:

4.3.4.1 If Contractor wishes to make a Claim for an increase in the Contract Price, Contractor shall submit the Claim as set forth in Section 4.3.3. This submission shall be made by Contractor before proceeding to execute the Work, except in an emergency endangering life or property in which case Contractor shall, as soon as possible, advise Owner of Contractor's intent to do the Work.

4.3.4.2 Increases in Contract Price due to Claims shall be calculated based on the methods detailed in Section 5.4.

4.3.4.3 Under no circumstances shall Contractor recover any administrative overhead costs or recover on the basis of any "Home Office" damages formula, "Total Cost" recovery formula, or any other such formula.

4.3.5 Claims for Additional Time:

4.3.5.1 If Contractor wishes to make a Claim for an increase in the Contract Time, Contractor shall submit the Claim as set forth in Section 4.3.3. Contractor's claim shall

HSIP CYCLE 10 FLASHING BEACONS PROJECT

include an estimated probable effect of delay on progress of the Work. In the case of a continuing delay, only one (1) Claim is necessary.

4.3.5.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time and could not have been reasonably anticipated and that weather conditions had an adverse effect on the Work.

4.3.5.3 Owner shall not be liable for any damages on account of any delay or hindrance of Owner, except for an extension of time caused by the same. Contractor shall make any Claims for an extension in time as set forth in Section 4.3.3 for any unreasonable delay or hindrance caused by Owner, and specify the cause thereof.

4.3.6 Submission Under Penalty of Perjury: Contractor shall certify, at the time of submission of a claim, as follows:

"I certify under penalty of perjury under the laws of the State of California, that the claim is made in good faith, that the supporting data is accurate and complete, and that the amount requested accurately reflects the Contract adjustment for which Owner is liable. Executed on ____ (date) _____ in ____ (City) _____, (State).

By: _____
(Contractor's signature)"

4.3.7 Receipt of Claim:

4.3.7.1 Upon receipt of a Claim, Owner shall conduct a reasonable review of the Claim and, within a period not to exceed forty-five (45) days, shall provide Contractor a written statement identifying what portion of the Claim is disputed and what portion is undisputed. Owner and Contractor may, by mutual agreement, extend the time period provided in this subdivision.

4.3.7.2 If Owner needs approval from its Board to provide Contractor a written statement identifying the disputed portion and the undisputed portion of the Claim, and its Board does not meet within the forty-five (45) days or within the mutually agreed to extension of time following the receipt of a Claim, Owner shall have up to three (3) days following the next duly publicly noticed meeting of its Board after the forty-five (45) day period, or extension, expires to provide Contractor a written statement identifying the disputed portion and the undisputed portion.

4.3.7.3 Any payment due on an undisputed portion of the Claim shall be processed and paid within sixty (60) days after Owner issues its written statement. If Owner fails to issue a written statement, Section 4.4.2 shall apply.

4.4 DISPUTE RESOLUTION

4.4.1 Continue Work during Dispute: In the event of any dispute between Owner and Contractor, Contractor will not stop the Work but will prosecute the Work diligently to completion in the manner directed by Owner and the dispute shall be resolved as provided herein or by a court of law after completion of the Work.

HSIP CYCLE 10 FLASHING BEACONS PROJECT

4.4.2 Dispute of Owner's Written Response: If Contractor disputes Owner's written response, or if Owner fails to respond to a Claim within the time prescribed, Contractor may demand an informal conference to meet and confer for settlement of the issues in dispute submitted to Inspector in writing sent by registered mail or certified mail, return receipt requested,.

4.4.2.1 Upon receipt of a demand in writing, Owner shall schedule a meet and confer conference within thirty (30) days for settlement of the dispute.

4.4.2.2 Within ten (10) business days following the conclusion of the meet and confer conference, if the Claim or any portion of the Claim remains in dispute, Owner shall provide Contractor a written statement identifying the portion of the Claim that remains in dispute and the portion that is undisputed.

4.4.2.3 If Owner needs approval from its Board to provide Contractor a written statement identifying the disputed portion and the undisputed portion of the Claim, and its Board does not meet within the ten (10) days or within the mutually agreed to extension of time following the receipt of a Claim, Owner shall have up to three (3) days following the next duly publicly noticed meeting of its Board after the ten (10) day period, or extension, expires to provide Contractor a written statement identifying the disputed portion and the undisputed portion.

4.4.2.4 Any payment due on an undisputed portion of the Claim shall be processed and made within sixty (60) days after Owner issues its written statement.

4.4.2.5 Any disputed portion of the Claim, as identified by Contractor in writing, shall be submitted to nonbinding mediation, with Owner and Contractor sharing the associated costs equally. Owner and Contractor shall mutually agree to a mediator within ten (10) business days after the disputed portion of the Claim has been identified in writing. If the parties cannot agree upon a mediator, each party shall select a mediator and those mediators shall select a qualified third party to mediate. Each party shall bear the fees and costs charged by its respective mediator in connection with the selection of the neutral mediator. If the mediation is successful, any payment due shall be made in compliance with Section 4.4.2.4. If mediation is unsuccessful, the parts of the Claim remaining in dispute shall be subject to applicable procedures outside this Section.

4.4.2.6 Mediation includes any nonbinding process, including, but not limited to, neutral evaluation or a dispute review board in which an independent third party or board assists the parties in dispute resolution through negotiation or by issuance of an evaluation.

4.4.3 Suit in Kings County Only: Any litigation arising out of the Contract Documents shall be brought and adjudicated in Kings County. Contractor hereby waives the removal provisions of Section 394 of the Code of Civil Procedure.

4.4.3.1 In any suit filed under Section 20104.4 of the Public Contract Code, Owner shall pay interest at the legal rate on any arbitration award or judgment, as required by Section 20104.6 of the Public Contract Code.

///

///

HSIP CYCLE 10 FLASHING BEACONS PROJECT

ARTICLE 5 **CHANGES IN WORK**

5.1 WAIVER

5.1.1 Waivers of Contract Provisions: It is expressly understood and agreed that no waiver granted by Inspector or Owner of any term, provision, or covenant of the Contract Documents shall constitute precedent or give rise to an expectation of a future waiver for breach of the same or any other terms, provisions, or covenants.

5.2 CHANGES AND CHANGE ORDERS

5.2.1 Owner May Order Changes in Work: Contractor agrees that Owner may order changes, including but not limited to, revisions to Plans and Specifications, performance of extra Work, and the elimination of Work, without invalidating the Contract Documents and without notice to sureties. Orders for such changes will be in writing and signed by the parties. Changes shall not affect the obligations of the sureties on the contract bonds nor require their consent. Contractor shall notify Owner for its evaluation whenever it appears a change is necessary. Contract Time and Contract Price will be adjusted, by written Change Order for changes which materially increase or decrease the time for or cost of the Work. Owner reserves the right to accelerate the Work.

5.2.2 Proposed Change Order: Changes to the Work will be provided to Contractor with a written Proposed Change Order by Owner, which describes the intended changes to the Work. A request for a Proposed Change Order may be made using the Request for Instruction (RFI) or Architect Supplemental Instruction (ASI) process.

5.2.3 Timeline: Within fourteen (14) days, Contractor shall submit to Owner Contractor's proposed cost estimate to be added or deducted from the Contract Price as a result of the change. Any proposed cost estimates shall be authenticated in full by completely detailed estimates and other authenticators of the cost by Contractor, Subcontractor, vendors, or material suppliers, and any adjustments to the Contract Time that is directly attributable to Owner's Proposed Change Order.

5.2.4 Agreement: If an agreement is reached as to the adjustment in compensation for performance of changed Work, but an agreement is not reached as to the adjustment of Contract Time for such Work, Contractor shall proceed with the Work at the agreed cost, reserving to Contractor the right to further pursue Contractor's Claim for adjustment of time in accordance with Section 4.3.3.

5.2.5 Failure to Submit Cost Estimate: If Contractor fails to submit the cost estimate within the fourteen (14) day timeline, or there is failure to agree to the cost, Owner shall have the right to issue a Change Directive to Contractor to commence Work immediately, and the Contract Price shall be changed in accordance with Owner's estimate of cost, unless, within fourteen (14) days following completion of the added Work or with written notice to delete the Work, Contractor submits to Owner written proof that Owner's estimate is in error.

5.2.6 Contractor, when ordered by Owner, shall proceed with changes before an agreement is reached on adjustment in Contract Price or Contract Time and shall furnish to Owner records as specified in Section 5.4.1.3. If Contractor fails to provide such records, Owner's records will be used for the purpose of adjustment in Contract Time and Contract Price.

HSIP CYCLE 10 FLASHING BEACONS PROJECT

5.2.7 Contractor may request progress payments for such Work.

5.3 OTHER CHANGE INSTRUMENTS

5.3.1 Field Order: Inspector may order minor changes in work by use of a Field Order. These minor changes will involve neither changes in the Contract Price or Contract Time. If Contractor disagrees that the change does not involve a change in the Contract Price or Contract Time, then a Change Order or Change Directive shall be used.

5.3.2 Change Directive: In the event that Owner and Contractor do not agree on the Proposed Change Order as set forth in Section 5.2, or in the event it is essential that Contractor proceed expeditiously and without delay, Owner may order changes in the Work by issuance of a Change Directive and Contractor shall promptly proceed with the change in the Work involved.

5.4 BASES OF ADJUSTMENT TO CONTRACT PRICE

5.4.1 Methods of Adjustment: Methods used in determining adjustments to the Contract Price shall be based on one of the following.

5.4.1.1. By mutual acceptance of a lump sum increase or decrease in costs. Upon Owner's written request, Contractor shall furnish a detailed estimate of increase or decrease in costs, together with cost breakdowns and other supporting data within the time specified in such request. Contractor shall be responsible for any additional costs caused by Contractor's failure to provide the estimate within the time specified.

5.4.1.2 By Owner, on the basis of Owner's estimate of the increase or decrease in the costs.

5.4.1.3 By Owner, whether or not negotiations are initiated, by actual and necessary costs, as determined by Owner, on the basis of records. Beginning with the first day and at the end of each day, Contractor shall furnish to Owner detailed hourly records for labor, construction equipment, and services; and itemized records of materials and equipment used that day in performance of the changes. Such records shall be on a form acceptable to Owner. Such records shall be signed by Contractor and, when agreed to by Owner, will become the basis for compensation for the changed work. Such agreement shall not preclude subsequent adjustment based upon a later audit by Owner.

5.4.1.4 By unit prices stated in the Contract Documents, or subsequently agreed upon.

5.4.2 Allowable Costs: The only costs which will be allowed due to changes in the Work shall be computed in the following manner:

5.4.2.1 Compensation for labor shall include the necessary payroll cost, including first level supervision, directly engaged in performance of the changes. Wages shall not exceed current prevailing wages in the locality for performance of the changes. Use of a classification which would increase labor costs will not be permitted. Exceptions will be permitted only when Contractor establishes, to the satisfaction of Owner, the necessity for payment at higher rates or classifications.

5.4.2.2 Materials and Equipment: Compensation for materials and equipment shall include the necessary costs for materials and equipment directly required for performance of the

HSIP CYCLE 10 FLASHING BEACONS PROJECT

changes. Cost of materials and equipment may include costs of transportation and delivery. If discounts by suppliers are available to Contractor, they shall be credited to Owner. If materials and equipment are obtained from a supply or source owned by, or in part, by Contractor, payment therefor will not exceed current wholesale prices for such materials and equipment. If, in the opinion of Owner, the cost of materials and equipment is excessive, or if Contractor fails to furnish satisfactory evidence of costs from supplier, the cost of materials and equipment shall be the lowest current wholesale price at which similar materials and equipment are available in the quantities required. Owner reserves the right to furnish materials and equipment required for performance of the changes and Contractor shall have no claim for costs or mark-ups on such materials and equipment.

5.4.2.3 Construction Equipment: Compensation for construction equipment shall include the necessary costs for use of construction equipment directly required for performance of the changes. Any use for less than thirty (30) minutes shall be considered one-half (1/2) hour. No costs will be allowed for time while construction equipment is inoperative, idle, or on stand-by for any reason, unless such times have been approved in advance by Owner. Rental time for construction equipment moved by its own power shall include the time required to move construction equipment to the Work site from the nearest available source for rental of such equipment and time required to return such equipment to the source. If construction equipment is not moved by its own power, loading and transportation costs will be paid in lieu of such rental time. Neither moving time nor loading and transportation costs will be allowed if the construction equipment is used for any Work other than the changes. No allowance will be made for individual pieces of construction equipment and tools having a replacement value of five hundred dollars (\$500.00) or less. No construction equipment costs will be recognized in excess of rental rates established by distributors or equipment rental agencies in the locality for performance of the changes. Unless otherwise approved by Owner, the allowable rate for use of construction equipment shall constitute full compensation to Contractor for cost of fuel, power, oil, lubrication, supplies, necessary attachments, repairs and maintenance of any kind, depreciation, storage, insurance, and labor, except for construction equipment operators and any and all costs to Contractor incidental to the use of such construction equipment.

5.4.3 Cost Disallowance: Costs which will not be allowed or paid in Change Orders, Change Directives, or Claim settlements under these Contract Documents include, but are not limited to: interest cost of any type, other than those mandated by statute; Claim preparation or filing costs; legal expenses; the costs of preparing or reviewing Proposed Change Orders, Change Orders, or Change Directives which are not issued by Owner; lost revenues; lost profits; lost income or earnings; rescheduling costs; costs of idled equipment when such equipment is not yet at the site or has not yet been employed on the Work; lost earnings or interest on unpaid retention; Claims consulting costs; the costs of corporate officers or staff visiting the site or participating in meetings with Owner; any compensation due to the fluctuation of foreign currency conversions or exchange rates; or loss of other business.

5.5 EXTENSION OF TIME FOR COMPLETION

5.5.1 Contractor Delayed or Hindered: Should Contractor be delayed or hindered in the completion of the Work by the neglect of Owner, or by fire, strikes, lockouts, embargoes, earthquakes, or any other cause that Inspector approves as not having been reasonably foreseeable at the time of execution of the Contract Documents, the Contract Time shall be extended for a period equivalent to the time lost by reason of any or all of the stated causes. Time extensions must be requested in accordance with Section 4.3.3.

HSIP CYCLE 10 FLASHING BEACONS PROJECT

5.5.2 Agreement on Time Extension: Contractor and Owner reserve the right to mutually agree in writing upon an extension of time for completion for causes other than enumerated above. Inspector must recommend the extension and the additional time must be set forth in a signed Change Order.

5.5.3 Time Extension not Waiver: The granting of an extension of time by Owner shall not operate as a waiver or estop Owner from claiming damages due to any other delays, prior or subsequent, which were not approved by Inspector and Owner as provided herein.

5.6 ACCEPTANCE OF CHANGE ORDERS

5.6.1 Contractor's written acceptance of a Change Order shall constitute final and binding agreement to the provisions thereof and a waiver of all Claims in connection therewith, whether direct, indirect, incidental, consequential, or special in nature.

ARTICLE 6 PAYMENTS AND COMPLETION

6.1 GENERAL

6.1.1 Contract Price: The Contract Price as stated in the Contract Documents, including authorized adjustments, is the total maximum amount payable by Owner to Contractor for performance of the Work.

6.1.2 Waiver: Neither the acceptance of the Work by Owner nor the payment of any part or all of the Contract Price shall constitute a waiver by Owner of any claim which Owner may have against Contractor or surety under the Contract Documents or otherwise.

6.1.3 Manner of Paying Warrants: When payment becomes due under the Contract Documents or as otherwise prescribed by law, Owner shall cause a warrant for the certified amount to be drawn upon the proper fund which shall be approved and issued to Contractor within that period of time customarily required to process said warrants in the ordinary course of Owner's business.

6.2 SCHEDULE OF VALUES

6.2.1 Before the first Application for Payment, Contractor shall submit to Inspector a Schedule of Values allocated to various portions of the Work prepared in such form and supported by such data to substantiate its accuracy as Inspector may require. This Schedule of Values, unless objected to by Inspector, shall be used as a basis for reviewing Contractor's Applications for Payment.

6.3 LIST OF COSTS

6.3.1 Contractor shall ensure that he or she and any Subcontractor employed to do work under the Contract Documents shall list costs according to the CSI Divisions of the Schedule of Values in categories that reflect major costs areas for construction projects.

6.4 APPLICATIONS FOR PAYMENT

6.4.1 Submittal of Applications: At least ten (10) days before the date established for each

HSIP CYCLE 10 FLASHING BEACONS PROJECT

progress payment, Contractor shall submit to Inspector an itemized Application for Payment for Work completed to date. Such application shall be supported by documentation of Contractor's right to payment as Owner may require, such as copies of requisitions from Subcontractor and material suppliers, and reflect the amount of retention as provided in the Contract Documents.

6.4.2 Basis for Payment: Each Application for Payment shall be submitted by Contractor in accordance with the Contract Documents. Applications shall indicate the percentage of completion of each portion of the Work covered by the Application.

6.5 PROGRESS PAYMENTS

6.5.1 Progress Payments: Based on the Applications for Payment, progress payments shall be made once each month on or about a date to be determined by Owner or on a schedule as mutually agreed by the parties.

6.5.2 Computation of Progress Payments: Subject to the provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

6.5.2.1. That portion of the Contract Price computed by multiplying the percentage completed of each Work task by the portion of the Contract Price allocated to the Work task in the Schedule of Values, less a retainage of five (5) percent;

6.5.2.2. Plus the values of Change Orders for which the final cost or credit has not yet been determined, and which is not in dispute;

6.5.2.3. Plus the portion of the Contract Price allocated to equipment and materials delivered and suitably stored at the site (or, if approved in advance by Owner, suitably stored off the site) for incorporation in the Work, less a retainage of twenty-five (25) percent.

a. If approved in advance by Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing.

b. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by Contractor with procedures satisfactory to Owner to establish Owner's title to such materials and equipment or otherwise protect Owner's interest, and shall include applicable insurance, storage, and transportation to the site for such materials and equipment stored off the site.

6.5.2.4. Less the aggregate of previous payments made by Owner to Contractor for the Work.

6.5.2.5. Less amounts, if any, for which Inspector has withheld or disallowed as provided in Article 9 and Section 6.7.

6.5.2.6. Plus, upon Substantial Completion of the Work, an amount sufficient to increase the total amount paid to Contractor for the Work to ninety (90) percent of the Contract Price, less amounts as Inspector determines for incomplete Work and unsettled claims.

6.5.2.7. Plus, if final completion of the Work is thereafter materially delayed through no fault of Contractor, any additional amounts payable in accordance with the Section 6.8.

HSIP CYCLE 10 FLASHING BEACONS PROJECT

6.5.2.8. Less amounts, if any, withheld as anticipated liquidated damages incurred as a result of a delay to the Work's completion, as shown on Contractor's schedule.

6.5.2.9. Less amounts, if any, withheld as compensation for excessive submittals, as further set forth in Section 3.4.2.

6.5.3 Release of Claims: Payment of undisputed progress payments is contingent upon Contractor furnishing Owner with a release of all claims against Owner arising by virtue of the Work relating to the amount so paid. The release may be on the form used for computing progress payments.

6.5.4 Work Free of Liens: Contractor warrants that upon submittal of an Application for Payment, all Work for which Certificates for Payment have been previously issued and payments received from Owner shall be free and clear of liens, claims, security interests, or encumbrances against Contractor by Subcontractor, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials, and equipment in relation to the Work.

6.5.5 Interest Payments: If Owner does not pay Contractor within thirty (30) days after receipt of an undisputed and properly submitted Application for Payment, excluding retention amounts, then Owner shall pay interest to Contractor as provided by Section 20104.50 of the Public Contract Code. If Inspector does not issue a Certificate for Payment, through no fault of Contractor, within seven (7) days after receipt of Contractor's Application for Payment, the number of days available to Owner to make a payment without incurring interest pursuant to this Section shall be reduced by the number of days by which Owner exceeds the seven (7) day return requirement set forth in Section 20104.50, subdivision (c)(2), of the Public Contract Code.

6.6 INSPECTOR'S CERTIFICATION FOR PAYMENT

6.6.1 Inspector's Determination: Inspector will, within seven (7) days after receipt of Contractor's Application for Payment, either issue to Owner a Certification for Payment, with a copy to Contractor, for such amount as Inspector determines is properly due, or notify Contractor and Owner of Inspector's reasons for withholding certification in whole or in part as provided for in Section 6.7.

6.7 WITHHOLDING FROM PAYMENTS

6.7.1 Reasons for Withholding: Owner, upon recommendation of Inspector, may withhold payments or, on account of subsequently discovered evidence, nullify the whole or a part of any progress or retention payments to such extent as may be necessary to protect Owner from loss on account of:

6.7.1.1 Defective work or material not remedied or replaced.

6.7.1.2 The filing of claims or stop notices to withhold or reasonable evidence indicating probable filing of such claims or notices.

6.7.1.3 Failure of Contractor to make payments properly to Subcontractor or for materials or labor.

6.7.1.4 Failure to make payments to any person or entity for financial obligations of

HSIP CYCLE 10 FLASHING BEACONS PROJECT

Contractor under terms of the Contract Documents,

6.7.1.5 A reasonable doubt that the Work can be completed for the balance then unpaid.

6.7.1.6 Damage to another contractor.

6.7.1.7 Performance of work in violation of the terms of the Contract Documents.

6.7.1.8 Excessive costs to Owner, as described in Section 1.5 or costs for excessive submittals, Requests for Instruction (RFI), Failed Inspections, as described in Section 3.4.2.

6.7.1.9 Failure of Contractor to comply with requirements for timely submittal of specified documentation, including but not limited to construction schedules, cost proposals, and submittals.

6.7.1.10 Anticipated liquidated damages incurred due to an inability to meet the Contract Time and any updates thereto.

6.7.2 Release of Payment: Owner shall pay Contractor the amounts withheld when the reasons for withholding are removed.

6.8 SUBSTANTIAL COMPLETION

6.8.1 Request for Inspection: When Contractor considers that the Work, or a portion thereof which Owner agrees to accept separately, is substantially complete, Contractor shall request an inspection of the Work. Inspector will then make an inspection to determine whether the Work or designated portion thereof is substantially complete. If Inspector's inspection discloses significant Work which is not in accordance with the requirements of the Contract Documents, Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such Work. Inspector shall prepare a list of any items of Work which is judged to be minor repair work or to be covered by warranties.

6.8.2 Certificate of Substantial Completion: When the Work or designated portion thereof is substantially complete, Inspector will recommend to Owner that Owner issue a Certificate of Substantial Completion which shall establish the date of Substantial Completion and shall fix the time within which Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion. The Certificate of Substantial Completion shall indicate responsibilities assigned to Contractor and shall be accepted in writing by him or her.

6.8.3 Final Payment: Except as otherwise provided, upon issuance of a Certificate of Substantial Completion, a sum sufficient to increase the total payments to ninety-five percent (95%) of the Contract Price shall be paid to Contractor.

6.9 ALTERNATIVES TO FIVE PERCENT (5%) RETENTION

6.9.1 Substitution of Securities for Five Percent (5%) Retention: As provided under Section 22300 of the Public Contract Code, Contractor may, at his or her request and expense, and in lieu of the monies withheld by Owner to ensure performance under the Contract Documents, deposit

HSIP CYCLE 10 FLASHING BEACONS PROJECT

securities equivalent to the amount withheld with Owner or with a state or federally chartered bank as an escrow agent, who shall then pay those monies to Contractor upon satisfactory completion of the Work and release of retention by Owner.

6.9.2 Alternatively, as further provided under Section 22300 of the Public Contract Code, Contractor may request and Owner shall make payment of retentions earned directly to the escrow agent at the expense of Contractor. Contractor may direct the investment of the payments into securities at Contractor's expense and shall receive the interest earned on the investments upon the same terms provided for securities deposited by Contractor. Upon satisfactory completion of the Work and release of the retention, Contractor shall receive from the escrow agent all securities, interests, and payments received by the escrow agent from Owner.

6.9.3 Securities eligible for investment under this Section shall include those listed in Government Code Section 16430, bank or savings and loan certificates of deposit, interest bearing demand deposit accounts, standby letters of credit, or any other security mutually agreed to by Contractor and Owner. Contractor shall be the beneficial owner of any securities substituted for monies withheld and shall receive any interest thereon.

6.9.4 Form of Escrow Agreement: The terms and conditions of the escrow shall substantially conform to the form set forth in subdivision (f) of Section 22300 of the Public Contract Code.

6.9.5 Escrow Agreements for Subcontractor: In the event Contractor chooses to receive interest on monies withheld by retention, Contractor shall comply with subdivision (d) of Section 22300 of the Public Contract Code for any Subcontractor performing Work under the Contract Documents.

6.10 FINAL COMPLETION AND PAYMENT OF RETENTION

6.10.1 Affidavit of Payment: After the date of Substantial Completion of the Work and before final acceptance of the Work, Contractor shall file with Inspector his or her notarized affidavit stating that all persons employed, all firms supplying materials, and all Subcontractors have been paid in full, except certain items, if any, to be set forth in such affidavit covering disputed claims, including claims for acceleration, disruption, delays, inefficiencies, and hindrance, or items in connection for which stop notices have been filed under the provisions of the statutes of the State of California. The filing of such affidavit by Contractor shall be a prerequisite to the payment of the five percent (5%) retention.

6.10.2 Final Inspection: Upon receipt of written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, Inspector will promptly make such inspection and, when Inspector finds the Work acceptable under the Contract Documents and the Contract fully performed, Inspector will promptly recommend to Owner that Owner may consider the Work complete and that payment of the retention may be made.

6.10.3 Final Certification: Before payment of the retention, Contractor shall file with Owner a certificate in which he or she certifies that to the best of Contractor's knowledge, information, and belief, and on the basis of observations and inspections, the Work has been completed in accordance with terms and conditions of the Contract Documents.

6.10.4 Payment of Retention: Sixty (60) days after the Notice of Completion has been filed, the balance due under the Contract Documents shall be paid, less any monies held for stop notices or as disputed amounts. These payments shall not be construed as an absolute acceptance of the Work done up to the time of such payments. Contractor, if requested by Owner, shall furnish

HSIP CYCLE 10 FLASHING BEACONS PROJECT

receipts or other vouchers showing his or her payments for materials and labor.

6.10.5 Disputed Amounts: Pursuant to Section 7107 of the Public Contract Code, in the event of a dispute between Owner and Contractor, Owner may withhold from the Final Payment an amount not to exceed one hundred fifty (150) percent of the disputed amount plus any amounts necessary to cover any filed and unreleased stop notices. Except as so withheld, Owner shall pay the retention within sixty (60) days after the date of completion of the Work. In the event that retention amounts are not paid timely, Owner shall be subject to the interest provisions of Section 7107 of the Public Contract Code.

6.10.6 Notice of Completion: The Work shall be accepted in writing in the form of a Notice of Completion when the Work has been completed to the satisfaction of Owner. In judging the Work, no allowance for deviations from the original Specifications will be made unless already approved in writing at the proper times and in the manner as called for herein. The Notice of Completion shall be recorded by Owner.

ARTICLE 7

PROTECTION OF PERSONS AND PROPERTY

7.1 PROTECTION OF WORK, PROPERTY, AND PERSONS

7.1.1 Responsible for Damage to Owner's Property: Contractor shall be entirely responsible for any damage to the property of Owner due to careless handling of tools and/or materials or other causes attributed to Contractor or any Subcontractor in performing the Work.

7.1.2 Responsible for Safety: Contractor will take all necessary precautions for the safety of and will provide the necessary protection to prevent damage, injury, or loss to all employees on the Work and other persons who may be affected thereby, all the Work and all materials or equipment to be incorporated therein, whether in storage on or off the site, and other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement during the course of construction.

7.1.3 Safety and Convenience: Contractor will comply with all applicable laws, ordinances, rules, regulations, and orders of any public body having jurisdiction. Contractor will erect and maintain, as required by the conditions and progress of the Work, all necessary safeguards for safety and protection. Contractor will notify the owners of adjacent utilities when progression of the Work may affect them.

7.1.4 Remedy Damages: Contractor will remedy all damage, injury, or loss to any property caused, directly or indirectly, in whole or part, by Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or anyone of whose acts Contractor may be liable, except damage or loss attributable to the sole fault or to the acts or omissions of Owner or Inspector or anyone employed by them and not attributable, directly, or indirectly, in whole or in part, to the fault or negligence of Contractor.

7.1.5 Protection of Workers in Trenches: As required by Section 6705 of the Labor Code and any other applicable statute, law, or regulation, whenever the Work involves an estimated expenditure in excess of twenty-five thousand dollars (\$25,000) for the excavation of any trench or trenches five (5) feet or more in depth, Contractor shall submit for acceptance by Owner, or by a registered civil or structural Engineer employed by Owner to whom authority to accept has been delegated, in advance of excavation, a detailed plan showing the design of shoring, bracing, sloping, or other

HSIP CYCLE 10 FLASHING BEACONS PROJECT

provisions to be made for worker protection from the hazard of caving ground during the excavation, or such trench or trenches. If such plan varies from the shoring system standards established by the Construction Safety Orders of the Department of Industrial Relations, Division of Industrial Safety, the plan shall be prepared by a registered civil or structural engineer employed by Contractor and all costs therefor shall be included in the Contract Price for completion of the Work. Nothing in this Section shall be deemed to allow the use of a shoring, sloping, or other protective system less effective than that required by the Construction Safety Orders. Nothing in this Section shall be construed to impose tort liability on Owner, Owner's Engineer, or any of their officials, officers, agents, representatives, or employees.

ARTICLE 8 **INSURANCE AND BONDS**

8.1 INSURANCE

8.1.1 Contractor shall procure and maintain for the Contract Time and for ten (10) years thereafter insurance against claims for injuries to persons or damages to property, which may arise from or in connection with, the performance of the Work by Contractor, his or her agents, representatives, employees, or Subcontractor. Coverage shall be at least as broad as the specifications set forth below.

8.1.2 Commercial General Liability Insurance (CGL): Contractor shall obtain CGL as provided in Insurance Services Office Form CG 00 01, including products and completed operations, with limits of no less than five million dollars (\$5,000,000) per occurrence for bodily injury, personal injury, and property damage. If a general aggregate term applies, either the general aggregate limit shall apply separately to this project/location, or the general aggregate limit shall be twice the required occurrence limit.

8.1.3 Automobile Liability: Contractor shall obtain automobile liability insurance as provided in Insurance Services Office Form Number CA 0001 covering Code 1 (any auto), with limits of no less than five million dollars (\$5,000,000) per accident for bodily injury and property damage.

8.1.4 Workers' Compensation: Contractor shall carry workers' compensation insurance as required by California law in at least the amounts set forth in the applicable statutes and shall also carry Employers' Liability insurance with a limit of no less than one million dollars (\$1,000,000) per accident for bodily injury or disease.

8.1.5 Professional Liability: For Design/Build projects, Contractor shall have professional liability insurance in an amount of not less than one million dollars (\$1,000,000) per occurrence or claim and with a three million dollars (\$3,000,000) policy aggregate.

8.1.6 Contractor's Pollution; Asbestos Liability; Errors and Omissions: If the Work includes environmental hazards, Contractor shall have contractors' legal liability, asbestos legal liability, and/or errors and omissions insurance with limits of no less than one million dollars (\$1,000,000) per occurrence or claim and two million dollars (\$2,000,000) policy aggregate.

8.1.7 Deductibles and Self-Insured Retentions: Contractor shall declare to and obtain the approval of Owner for any deductibles or self-insured retentions. At the option of Owner, Contractor shall either cause the insurer to reduce or eliminate such deductibles or self-insured retentions with respect to Owner, its officers, officials, employees, and agents, or Contractor shall provide a financial guarantee satisfactory to Owner guaranteeing payment of losses and related

HSIP CYCLE 10 FLASHING BEACONS PROJECT

investigations, claim administration, and defense expenses.

8.1.8 Endorsement: Contractor shall endorse all insurance policies with the following provisions:

8.1.8.1 The County of Kings, its officers, officials, employees, and agents are to be covered as additional insured on the CGL and automobile liability policies with respect to liability arising out of the Work or operations performed by or on behalf of Contractor, including materials, parts, or equipment furnished in connection with such Work or operations and automobiles owned, leased, hired, or borrowed by or on behalf of Contractor. General liability coverage can be provided in the form of an endorsement to Contractor's insurance in language at least as broad as ISO Form CG 20 10, 11 85, or both CG 20 10 and CG 23 37 forms if later revisions are used.

8.1.8.2 Contractor's insurance shall be the primary insurance for any claims related to the Work with respect to Owner, its officers, officials, employees, and agents. Any insurance maintained by Owner, its officers, officials, employees, or agents shall be in excess of Contractor's insurance and shall not contribute thereto.

8.1.8.3 Each insurance policy obtained as required herein shall provide that coverage shall not be reduced or canceled, except with a minimum of thirty (30) days written notice to Owner.

8.1.8.4 In the event the Work includes trenching or construction of a tunnel, Contractor shall ensure that an exclusion of loss arising from explosion, collapse, and underground shall be endorsed out of the insurance policy.

8.1.9 Acceptability of Insurers: Contractor shall obtain insurance from insurers with a current A.M. Best Rating of no less than A: VII, unless otherwise acceptable to Owner.

8.1.10 Waiver of Subrogation: Contractor hereby agrees to waive rights of subrogation. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. Contractor shall endorse his or her workers' compensation policy with a waiver of subrogation in favor of Owner for all Work performed by Contractor, its employees, agents, and Subcontractor.

8.1.11 Verification of Coverage: Contractor shall furnish Owner with original certificates and endorsements, or copies of the applicable insurance language, effecting coverage required by the Contract Documents. All certificates and endorsements are to be received and approved by Owner before the commencement of any Work. Owner's failure to obtain the required documents prior to the commencement of the Work shall not constitute a waiver of Contractor's obligation as provided herein. Owner reserves the right to require complete, certified copies of all required insurance policies, including endorsements, at any time.

8.1.12 Subcontractor: Contractor shall require and verify that all Subcontractors maintain insurance coverage that meets or exceeds all of the requirements stated herein.

8.2 BONDS

8.2.1 General Requirements for Bonds: Before commencing any Work, Contractor shall file three (3) of each bond together with three (3) certified copies of said bonds with Owner. These bonds shall be in the amounts and for the purposes specified below. They shall be surety bonds and

HSIP CYCLE 10 FLASHING BEACONS PROJECT

shall be issued by corporations duly and legally authorized to issue such bonds in the State of California and secured through an authorized agent with an office in California. They shall be maintained by Contractor at his or her expense during the Contract Time or longer as provided.

8.2.2 Performance and Maintenance Bond(s): Contractor shall obtain a Performance bond in the amount of one hundred percent (100%) of the Contract Price which shall guarantee the faithful performance of the Work and insure Owner during the Contract Time. Contractor shall also obtain a maintenance bond in the amount of one hundred percent (100%) of the Contract Price which shall be in full force and effect through the Guarantee Period. Both bonds shall insure against faulty or improper materials and/or workmanship.

8.2.3 Payment Bond: Contractor shall obtain a Payment bond in the amount of one hundred percent (100%) of the Contract Price which shall guarantee the payment in full of all claims for labor and materials in accordance with the provisions of the laws of the State of California.

8.2.4 Change of Surety: If at any time a surety on such bonds becomes irresponsible or loses its right to do business in the State of California, Owner may require another surety which Contractor shall furnish within ten (10) calendar days after receipt of written notice to do so. Evidence of authority of an attorney-in-fact acting for the corporate surety must be provided in the form of a certificate as to his or her power of attorney and to the effect that it is not terminated and remains in full force and effect on the date of the bonds. The form of the bonds shall be subject to approval by Owner.

ARTICLE 9 UNCOVERING AND CORRECTION OF WORK

9.1 DEVIATION FROM CONTRACT DOCUMENTS

9.1.1 Improper Work: If Contractor varies from the Contract Documents in the form or quality of the Work, or the amount or value of the materials herein provided for, Owner shall have the right to order such improper work or materials removed, remade, or replaced without further compensation due to Contractor or Subcontractor. In the event such order is made, any other Work disturbed or damaged by such alteration shall be made good at Contractor's expense.

9.2 CORRECTION OF WORK

9.2.1 Inspection of Improperly Covered Work: If any Work is covered contrary to the written instructions of Inspector it must, if requested by Inspector, be uncovered for Inspector's observation and replaced at Contractor's expense.

9.2.2 Inspection of Covered Work: If Inspector considers it necessary or advisable that covered Work be inspected or tested by others, Contractor, at Inspector's request, will uncover, expose, or otherwise make available for observation, inspection, or testing as Inspector may require, that portion of the Work in question, furnishing all necessary labor, materials, tools, and equipment. Contractor will bear all expenses of such uncovering, exposure, observation, inspection, and testing and of any satisfactory reconstruction, if needed.

9.2.3 Rejected Work: Contractor shall promptly remove from the premises all Work rejected by Inspector or Owner for failure to comply with the Contract Documents, whether incorporated in the construction or not. Contractor shall promptly replace and re-execute the Work either during the Contract Time or during the Guarantee Period in accordance with the Contract Documents

HSIP CYCLE 10 FLASHING BEACONS PROJECT

and without expense to Owner. Contractor shall also bear the expense of making good all Work of other contractors or Subcontractor destroyed or damaged by such removal or replacement.

9.2.4 Cost of Correction: All removal and replacement Work shall be done at Contractor's expense. If Contractor does not take action to remove rejected Work within ten (10) days after receipt of written notice, Owner may remove such Work and store the materials at the expense of Contractor. Owner also may perform such Work or repairs itself and charge the expense to Contractor.

9.2.5 Correction During Guarantee Period: If during the Guarantee Period or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, Contractor shall correct it promptly after receipt of written notice from Owner to do so. The Guarantee Period shall be extended with respect to portions of the Work first performed after Notice of Completion by the period of time between Notice of Completion and the actual performance of the Work. This obligation shall survive acceptance of the Work and termination of the Contract. Owner shall give such notice promptly after discovery of the condition.

ARTICLE 10 **TERMINATION OR SUSPENSION OF CONTRACT**

10.1 TERMINATION BY OWNER FOR CONVENIENCE

10.1.1 Right to Terminate: Owner reserves the right to terminate the Contract at any time upon determination by its Board that termination of the Contract is in the best interest of Owner. Owner shall issue Contractor a written notice specifying that the Contract will be terminated and specify the date of such termination.

10.1.2 Contractor's Duties: Upon receipt of said written notice, Contractor shall stop all Work except that specifically directed to be completed prior to acceptance, perform the Work Inspector deems necessary to secure the Work for termination, remove equipment and tools from the site of the Work, take such action as is necessary to protect materials from damage, dispose of materials not yet used in the Work as directed by Inspector, and clean up the site in accordance with Section 3.11.3.

10.1.3 Payment for Work: If the Contract is terminated for Owner's convenience as provided herein, all finished or unfinished Work and materials previously paid for shall, at the option of Owner, become its property. Contractor shall be paid an amount which reflects costs incurred for Work provided to the date of notification of termination. In addition, Contractor shall be paid the reasonable cost, as solely judged by Inspector, and without profit, for all work performed to secure the Work for termination.

10.2 TERMINATION BY OWNER FOR CAUSE

10.2.1 Written Termination Notice: If Contractor is adjudged a bankrupt or insolvent, makes a general assignment for the benefit of its creditors, has a trustee or receiver appointed for any of its property, files a petition to take advantage of any debtor's act or to reorganize under the bankruptcy or applicable laws, fails to supply sufficient skilled workers or suitable material or equipment on more than one (1) occasion, fails to make prompt payments to Subcontractors for labor, materials, or equipment on more than one (1) occasion, disregards the authority of Inspector, or otherwise violates any provision of the Contract Documents, Owner may, without

HSIP CYCLE 10 FLASHING BEACONS PROJECT

prejudice to any other right or remedy and after giving Contractor and its Surety a minimum of ten (10) days written notice of termination, terminate the services of Contractor and take equipment and machinery owned by Contractor and finish the Work by whatever method Owner may deem expedient. In such case, Contractor shall not be entitled to receive any further payment until the Work is finished.

10.2.2 Inspector's Notice to Work or Quit: Without prejudice to other rights or remedies Owner may have if Contractor fails to begin delivery of materials and equipment, commence Work within the time specified, maintain the rate of delivery of material, execute the Work in the manner and at such locations as specified, or is not carrying out the intent of the Contract Documents, an Inspector's written notice may be served upon Contractor and its Surety on its faithful performance bond demanding satisfactory compliance with the Contract Documents. Service shall be made by U.S. Mail, First Class, return receipt requested.

10.2.2.1 If Contractor or its Surety does not comply with such notice within five (5) days after the date delivered as indicated on the return receipt, or after starting to comply, fails to continue, Owner may exclude it from the Work site, take possession of all material and equipment, and complete the Work by Owner's forces, letting the unfinished work to another Contractor, or a combination of such methods.

10.2.3 Owner's Rights after Termination: Where Contractor's services have been terminated by Owner, said termination shall not affect any right of Owner against Contractor then existing or which may thereafter accrue. Any retention or payment of monies by Owner due Contractor will not release Contractor from compliance with the Contract Documents.

10.2.3.1 If the unpaid balance of the Contract Price exceeds the direct and indirect costs of completing the Work, including compensation for additional professional services, such excess shall be paid by Contractor. If the unpaid portion of the Contract Price is insufficient for completion, Contractor or its Surety shall pay Owner all costs in excess of the Contract Price within five (5) days after the completion of the Work. In any event, the cost of completing the Work shall be charged against Contractor and its Surety and may be deducted from any monies due or coming due from Owner.

10.2.3.2 If the Surety assumes any part of the Work, it shall take Contractor's place in all respect for that part and shall be paid by Owner for all work performed by it in accordance with the Contract Documents. If the Surety assumes the entire Contract, all monies due Contractor at the time of its default shall be payable to the Surety as the work progresses, subject to the terms of the Contract Documents.

10.2.3.3 The provisions of this Section shall be in addition to all other rights and remedies available to Owner under law or equity.

10.2.4 Subsequent to Notice of Termination: If, after notice of termination under Section 10.2, it is determined for any reason that Contractor was not in default, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to the provisions of Section 10.1.

10.3 SUSPENSION OF WORK

10.3.1 Owner May Suspend: Owner may suspend the Work or any portion thereof for a period of not more than ninety (90) days or such further time as agreed upon by Contractor, by written

HSIP CYCLE 10 FLASHING BEACONS PROJECT

notice to Contractor and Inspector, which shall fix the date on which the Work shall be resumed.

10.3.2 Resumption of Work: Contractor will resume the Work on the date so fixed. Contractor will be allowed an increase in the Contract Price or an extension of the Contract Time, or both, as directly attributed to any suspension.