

**OC Public Works, County of Orange  
Swinerton Builders****CT-280- 21011106****COUNTY OF ORANGE MODEL CONTRACT  
CONTRACT CT-280- 21011106**

This Contract is made and entered into the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the COUNTY of ORANGE, a political subdivision of the State of California, herein referred to as "COUNTY," and \_\_\_\_\_, herein referred to as "Contractor."

COUNTY and Contractor agree as follows:

**1. CONTRACT DOCUMENTS**

Contract Documents, which together comprise the complete Contract between COUNTY and Contractor, consist of the following: the Bid; this Contract; the General Conditions; Supplementary General Conditions; the Non-collusion Declaration; Addenda and Bulletins; Attachments; Appendices; Plans; and Specifications mentioned in any Contract Documents; and all modifications and amendments to the foregoing issued after the date of execution of the Contract, including Amendments and Change Orders. The Contract Documents also include the Faithful Performance Bond and the Labor and Material Payment Bond. The Contract Documents are complementary, and what is called for by anyone shall be as binding as if called for by all.

**2. SCOPE OF WORK**

Contractor shall perform all work as required by, and in strict accordance with, the Contract Documents (the "Project") for the Rental Car Reconfiguration Work Package 3: Kiosks. Contractor shall provide and furnish all labor, project management, supervision, funding administration, planning, scheduling, materials, testing, commissioning, inspection, quality control, tools, equipment, services and all transportation services in adequate quantity and quality to accomplish completion of the work as specified and all work inferred as necessary within the time period set forth. The work shall conform to the Construction Documents and all codes, regulations, laws, etc. referenced in the Contract Documents or by industry standard, including General Requirements, Division 01 – 011100 Summary of Work.

**3. CONTRACT PRICE, CONTINGENCY AND TIME****3.1. CONTRACT PRICE**

COUNTY shall pay Contractor for all work required by the Contract Documents the Contract Price of **Four Million, Two Hundred Sixty-One Thousand, Four Hundred and One Dollars (\$4,261,401)**, as it may be adjusted pursuant to the "CHANGES" Section of the General Conditions, and in accordance with the "PAYMENTS" Section of the General Conditions.

**3.2. CONTRACT TIME**

Within 10 calendar days of the award of the Contract, Contractor shall submit to COUNTY for its review bonds (as detailed below); proof of insurance. If COUNTY rejects the submitted documents, Contractor will have 5 additional calendar days to resubmit. If Contractor fails to submit documents within the required time(s), the Contract Time (as defined below) will be reduced by the number of days which exceed the time for submittal. If Contractor fails to submit acceptable documents by the second submission, COUNTY may, at its sole discretion, proceed to award the Contract to the next lowest responsive, responsible bidder or reduce the Contract Time by the number of days between COUNTY's rejection of the second submission and COUNTY's approval of the documents.

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Upon COUNTY's approval of the bonds insurance, and initial job Construction Schedule, COUNTY will deliver to Contractor a signed copy of the Contract and a Notice to Proceed with the work. Contractor shall not commence construction until COUNTY issues the Notice to Proceed. Contractor shall complete all work required by the Contract Documents within 200 calendar days of the effective date of the Notice to Proceed ("Contract Time"). Please note that the nine kiosks are to be turned over to the Rental Car Agencies on calendar day 110. The Rental Car Agencies will then have 45 Calendar days to do final fit out and move into the kiosks. The General Contractor will then have 45 calendar days to demolish the existing nine kiosks and do final patch back and cleanup of the demolished areas.

The Contract Time includes zero (0) days of anticipated weather days necessitating stoppage of work, and a time extension due to rain or other adverse weather conditions will only be granted in accordance with the "DELAYS DUE TO WEATHER AND FORCE MAJEURE" Section of the General Conditions.

The COUNTY and Architect will not be responsible for the failure of the Contractor to plan, schedule, and execute the work in accordance with the approved schedule or the failure of the Contractor to meet the Contract completion dates or the failure of the Contractor to schedule and coordinate the work of his own trades and subcontractors or to coordinate with others separate Contractors.

**4. BONDS**

Within 10 calendar days after award of the Contract, the successful Contractor shall furnish a Faithful Performance Bond and a Labor and Material Payment Bond, each in an amount equal to 100% of the Contract Price, issued by a surety in accordance with the requirements of the General Conditions of the Contract. The bonds shall be in the form of the models included in the Invitation for Bid Documents, and must be approved by COUNTY's Risk Manager and County Counsel. The successful Contractor shall submit the bonds in duplicate, all of which shall bear original signatures. The signature of the surety representative must be notarized.

**5. LIQUIDATED DAMAGES**

In accordance with Government Code Section 53069.85, Contractor agrees to forfeit and pay to COUNTY the sum of Two Thousand Six Hundred Fifty One dollars (\$2,651) per day ("Liquidated Damages") for each calendar day that completion of all the work required by the Contract Documents is delayed beyond the Contract Time, as may be adjusted by Change Order. COUNTY may deduct such sum from any payments due to or to become due to Contractor. If the Liquidated Damages exceed the unpaid balance of the Contract Price otherwise owed to CONTRACTOR, then CONTRACTOR shall immediately pay COUNTY the difference

**6. CONTRACTOR SHALL PERFORM 0.5% OR MORE OF THE WORK**

Contractor shall be capable of performing, and shall perform with its own organization, work amounting to at least 0.5% of the Base Bid Amount. However, any Bid Item designated as a specialty bid item will be excluded from the Base Bid Amount for purposes of this Section only.

**7. EMPLOYEE ELIGIBILITY VERIFICATION**

Contractor hereby certifies that it complies with all applicable laws and regulations regarding the eligibility of its employees to work in the United States, and that all of its employees performing work under this Contract meet all citizenship or immigration status requirements to do so. Contractor shall obtain all documentation necessary to verify the employment eligibility status of covered employees as described by U.S. Citizenship and Immigration Services Form I-9. Contractor shall retain such documentation for the

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period prescribed by law. Contractor shall indemnify, defend with counsel approved in writing by COUNTY, and hold harmless the COUNTY, its agents, officers, and employees from any sanctions or liability that may be assessed in connection with any alleged violation of federal or State laws or regulations pertaining to the eligibility for employment of any persons performing work under this Contract.

**8. SECURING WORKERS' COMPENSATION INSURANCE CERTIFICATION**

Contractor, by executing this Contract, hereby certifies:

"I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with the provisions before commencing the performance of the work of this contract."

**9. PARTIES' REPRESENTATIVES****9.1. COUNTY'S REPRESENTATIVES**

9.1.1. OC Public Works. The Project is under the general direction of COUNTY's Board of Supervisors. The Board of Supervisors authorizes OC Public Works Director to be COUNTY's representative in connection with the Project.

9.1.2. COUNTY'S Project Manager: The Project Manager shall be Leo Tang, unless OC Public Works Director designates in writing an alternate person who will act as COUNTY's representative during construction of the Project. Unless otherwise expressly stated in the Contract Documents, COUNTY's designated representative will issue and receive all written communications on behalf of COUNTY for the Project. The designated representative shall also coordinate any communications to or from COUNTY's Architect-Engineer ("A-E") in connection with the Project. COUNTY's Project Manager is the COUNTY's exclusive contact agent to the Contractor with respect to this Project during construction and until the completion of the Project. The COUNTY's communications with the Contractor and A-E shall be exclusively through the COUNTY's Project Manager. Project Manager shall manage the routine responsibilities of COUNTY, but is not authorized to make decisions for COUNTY that materially affect this Contract or create additional legal liabilities for COUNTY.

9.1.3. The COUNTY will not be responsible for the acts or omissions of the Contractor, or any subcontractor, or any Contractor's or subcontractor's agents or employees, or any other persons performing any of the work.

**9.2. COUNTY**

COUNTY has the final authority in all matters affecting the work. COUNTY has the authority to enforce Contractor's compliance with the Contract Documents. COUNTY's decision is final and binding on all questions relating to: it has quantities; acceptability of material, equipment, or work; execution, progress, or sequence of work; and interpretation of the Contract Documents. All labor, materials, tools, equipment furnished by Contractor and all work performed by Contractor shall be subject to the approval of COUNTY.

9.2.1. The COUNTY and A-E shall not be responsible for or have control or charge of the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the work, and will not be responsible for the Contractor's failure to carry out the work in accordance with the Contract Documents.

9.2.2. The COUNTY and A-E will not be responsible for the failure of the Contractor to plan, schedule, and execute the work in accordance with the approved schedule or the failure of the Contractor to meet the Contract completion dates or the failure of the Contractor to schedule and coordinate the work of his own trades and subcontractors or to coordinate with others separate Contractors.

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9.2.3. The COUNTY will not be responsible for the acts or omissions of the Contractor, or any subcontractor, or any Contractor's or subcontractor's agents or employees, or any other persons performing any of the work.

**9.3. CONTRACTOR'S REPRESENTATIVES**

9.3.1. Representative and Alternate: Before starting work, Contractor shall designate in writing a representative who shall have complete authority to act for it. Contractor may also designate an alternate representative with complete authority to act for it. COUNTY may rely on such representative or alternate as having the authority to execute Change Orders in any amount unless Contractor identifies to COUNTY in writing the officer(s) or employee(s) with such authority. Any order or communication given to this representative shall be deemed delivered to Contractor. In the absence of Contractor's representative, instructions or directions may be given by COUNTY to the project manager or superintendent. Such order shall be complied with promptly and referred to Contractor or its representative. Contractor's representative and alternate must be able to read, write, and speak English fluently.

9.3.2. Contractor's Project Manager: Contractor shall provide the services of the project manager. Contractor's project manager, if different than designated representative, shall represent Contractor in the absence of Contractor's designated representative or alternate, and all directions given to the project manager shall be binding as if given to Contractor. COUNTY may require Contractor to replace the project manager whose conduct or performance is unsatisfactory. Contractor shall not change its project manager without COUNTY's consent unless the project manager is unsatisfactory to Contractor or ceases to be in Contractor's employ. If Contractor's project manager leaves the Project, Contractor shall replace him or her within 24 hours (unless additional time is agreed upon by COUNTY) with a new, well-qualified project manager acceptable to COUNTY.

9.3.3. Superintendent(s): Contractor shall provide the services of the superintendent(s). A superintendent shall be present at the work site whenever work is in progress including whenever weather conditions necessitate its presence to take measures necessary to protect the work, persons, or property. Contractor's superintendent shall represent Contractor in the absence of Contractor's designated representative, alternate or project manager, and all directions given to the superintendent(s) shall be binding as if given to Contractor. The superintendent must read, write, and speak English fluently. COUNTY may require Contractor to replace a superintendent whose conduct or performance is unsatisfactory. Contractor shall not change its superintendent without COUNTY's consent unless the superintendent is unsatisfactory to Contractor or ceases to be in Contractor's employ. If Contractor's superintendent leaves the Project, Contractor shall replace him or her within 24 hours (unless additional time is agreed upon by COUNTY) with a new, well-qualified superintendent acceptable to COUNTY.

9.3.4. Emergency Contacts: Contractor shall provide COUNTY with a list of names and telephone numbers at which Contractor's representative, alternate, superintendent, and other key personnel can be reached during non-working hours in the case of an emergency.

**10. GOVERNING LAW AND VENUE – CODE OF CIVIL PROCEDURE SECTION 394**

This Contract has been negotiated and executed in the State of California and shall be governed by and construed under the laws of the State of California. In the event of any legal action to enforce or interpret this agreement, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the parties hereto agree to and hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394.

The parties specifically agree that by soliciting and entering into and performing services under this Contract, the Contractor shall be deemed to constitute doing business within Orange County from the time of solicitation of work, through the period when all work under this Contract is completed, and continuing

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until the expiration of any applicable limitations period.

Furthermore, the parties have specifically agreed, as part of the consideration given and received for entering this Contract, to waive any and all rights to request that an action be transferred for trial to another county under Code of Civil Procedure Section 394.

**11. SIGNATURE REQUIREMENTS**

The Contract must be signed by officer(s) authorized to bind Contractor. If documentation demonstrating express authority is not provided, then the Contract must be signed by those officers with apparent authority to bind Contractor. If Contractor is a corporation, such signatures must comply with Corporations Code Section 313, as follows:

- 1) One signature by the chairman of the board, the president, or any vice president; and One signature by the secretary, any assistant secretary, the chief financial officer, or any assistant treasurer.

**12. ENTIRE CONTRACT**

The Contract Documents represent the entire and integrated agreement between COUNTY and Contractor and supersede all prior representations, statements, or agreements concerning the subject matter of this Contract, whether verbal or written.

**13. BID SCHEDULE**

<b>1</b>	<b>General Requirements:</b>				
	<b>Sub-Total:</b>				\$63,593.00
<b>2</b>	<b>Existing Conditions:</b>				
	<b>Sub-Total:</b>				\$275,983.00
<b>3</b>	<b>Concrete</b>				
	<b>Sub-Total:</b>				\$156,300.00
<b>5</b>	<b>Metals:</b>				
	<b>Sub-Total:</b>				\$497,749.00
<b>6</b>	<b>Wood, Plastics, and Composites:</b>				
	<b>Sub-Total:</b>				\$183,317.00
<b>7</b>	<b>Thermal and Moisture Protection:</b>				
	<b>Sub-Total:</b>				\$119,900.00

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<b>8</b>	<b>Openings:</b>			
	<b>Sub-Total:</b>			\$307,165.00
<b>9</b>	<b>Finishes: (interior finishes)</b>			
	<b>Sub-Total:</b>			\$666,498.00
<b>10</b>	<b>Specialties: (Example – Signs, Toilet Accessories)</b>			
	<b>Sub-Total:</b>			\$1,624.00
<b>21</b>	<b>Fire Suppression:</b>			
	<b>Sub-Total:</b>			\$36,815.00
<b>22</b>	<b>Plumbing:</b>			
	<b>Sub-Total:</b>			\$143,730.00
<b>23</b>	<b>Heating, Ventilating, and Air Conditioning:</b>			
	<b>Sub-Total:</b>			\$653,602.00
<b>26</b>	<b>Electrical:</b>			
	<b>Sub-Total:</b>			\$690,456.00
<b>28</b>	<b>Electronic Safety and Security:</b>			
	<b>Sub-Total:</b>			\$32,912.00
<b>31</b>	<b>Allowance No. 1: Building Permit and Inspection Fee Deposit</b>			
	<b>Sub-Total:</b>			\$15,000

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**IN WITNESS WHEREOF**, the Parties hereto have executed this Contract on the dates opposite their respective signatures:

**SWINERTON BUILDERS**

a California Corporation

Date: 2/5/2021

By David Callis

David Callis, President  
Print Name & Title

*(If a corporation, the document must be signed by two corporate officers. The 1<sup>st</sup> must be either Chairman of the Board, President or any Vice President.)*

Date: 2/5/2021

By Ray Haj

Ray Haj, Sr. Vice President  
Print Name & Title

*(If a corporation, the 2nd signature must be either the Secretary, an Assistant Secretary, the Chief Financial Officer, or any Assistant Treasurer.)*

**COUNTY OF ORANGE,**

a political subdivision of the State of California

Date: \_\_\_\_\_

By \_\_\_\_\_

Print  
Name \_\_\_\_\_

Title \_\_\_\_\_

**APPROVED AS TO FORM**

Office of the County Counsel  
Orange County, California

By: Mark Sanchez  
Deputy

Date: 2/5/2021