

CONSTRUCTION AGREEMENT

This Construction Agreement, hereinafter referred to as AGREEMENT, is made and entered into this _____ day of _____, 2017 by and between the County of Orange, a political subdivision of the State of California hereinafter referred to as "COUNTY" and R.J. Noble Company, hereinafter referred to as "CONTRACTOR,"

That COUNTY and CONTRACTOR, for considerations hereinafter named, mutually agree as follows:

1. CONTRACTOR shall accomplish to the satisfaction of the ENGINEER, as defined in Section B of the Special Provisions, all work described in this AGREEMENT and the plans and specifications, and shall provide and furnish all the labor, materials, necessary tools, expendable equipment, and all utility and transportation services required for the:

Asphalt Overlay Resurfacing of
Foothill Boulevard and Hewes Street
APM Grant Project
2016-17

hereinafter referred to as PROJECT in accordance with this AGREEMENT. This AGREEMENT includes the following documents and their provisions which are incorporated herein by reference and made a part hereof as though fully set forth:

- A. "Standard Specifications for the Public Works Construction (Greenbook)," hereinafter referred to as STANDARD SPECIFICATIONS, except Sections 209, 214, 307, and 314 of the 2012 edition as published by Building News, Inc.
- B. The following portions of the "Standard Plans and Specifications" (and all standard specifications and plans referenced therein), Department of Transportation, State of California, 2010 Edition, hereinafter referred to as the CALTRANS STANDARD PLANS and CALTRANS STANDARD SPECIFICATIONS respectively:
 - a. Standard Specifications Sections: 9, 12, 15, 19, 42, 46-60, 61-67, 70, 72, 75, 82-86, 88, 90-91, and 95.
 - b. Standard Plan Nos.: A10, A20A-A20D, A24A-A24E, A62, A73A-A73C, A77, A81, D80-D86, T1-T5, T10-T17, all B Sheets, all RS Sheets, and all ES Sheets.

C. The California Manual on Uniform Traffic Control Devices (CA MUTCD), 2012 Edition. This manual may be downloaded by accessing the following Department of Transportation, State of California, website:

http://www.dot.ca.gov/hq/traffops/signtech/mutcdsupp/ca_mutcd2012.htm

D. The OC Public Works Department (formerly the EMA/PFRD/RDMD) Standard Plans (current issue and Supplement(s) thereto) hereinafter referred to as STANDARD PLANS.

E. Notice to Contractors.

F. Proposal requirements and conditions (Section A of the Special Provisions).

G. Supplement to Part 1 of the Standard Specifications for Public Works Construction (Section B of the Special Provisions).

H. General Miscellaneous (Section C of the Special Provisions).

I. Permits (Section D of the Special Provisions).

J. Construction Details (Section F of the Special Provisions).

2. COUNTY agrees to pay and CONTRACTOR agrees to accept in full payment for the work to be performed pursuant to this AGREEMENT the sum of eight hundred eighty-four thousand three hundred seventy-five dollars and fifty-one cents (\$884,375.51)

subject to additions and deductions at the unit prices set forth in CONTRACTOR's proposal in accordance with the AGREEMENT documents. COUNTY agrees to make work progress payments in accordance with the provisions of Section 9-3.2 "Partial and Final Payment" of the STANDARD SPECIFICATIONS, which sums shall be computed from the prices set forth in the bid submitted by CONTRACTOR.

Interest shall begin to accrue on any unpaid progress payment thirty (30) days after the ENGINEER'S submittal of the progress payment estimate. Interest shall be equivalent to the legal rate set forth in subdivision (a) of Section 685.010 of the Code of Civil Procedure.

3. CONTRACTOR agrees to commence construction of the PROJECT within thirty (30) calendar days after receipt of a Notice to Proceed issued by the ENGINEER; CONTRACTOR shall notify the ENGINEER at least five (5) working days in advance of starting work and agrees to continue construction of PROJECT in strict compliance with the plans and Special Provisions, in a due and diligent workmanlike manner without interruption, and to complete construction thereof within

Thirty (30) Working Days

from the date of commencement of work. CONTRACTOR's notice to ENGINEER shall specify the commencement of work date and that date shall be used to compute the AGREEMENT completion date. CONTRACTOR may perform mobilization work prior to the commencement of work date. In the event that CONTRACTOR commences any other work prior to the date specified in the notice to ENGINEER, that earlier date shall be used to compute the AGREEMENT completion date.

With the consent of ENGINEER and submission and approval of all the following documents: bonds, insurance certificates, signed CONSTRUCTION AGREEMENT, each certified by COUNTY, and a Notice of Intent (NOI) and Storm Water Pollution Prevention Plan (SWPPP) in accordance with the State General Construction Activity Storm Water Permit, CONTRACTOR may commence work prior to issuance of Notice to Proceed. If consent is granted, the AGREEMENT completion date, as computed per paragraph 3, shall remain unchanged. Payment shall be made for work in accordance with Paragraph 2 above of the AGREEMENT.

For AGREEMENTS which contain a plant establishment and plant maintenance period, the following applies:

The sixty (60) calendar day plant establishment period shall be accomplished prior to ENGINEER recommending AGREEMENT construction acceptance by the Board of Supervisors, hereinafter referred to as "BOARD". The plant establishment period shall be included within the working day period allowed for this AGREEMENT. For the limited purpose of determining the completion of CONTRACTOR's plant maintenance responsibility, the sixty (60) calendar day plant maintenance period shall commence on the date of AGREEMENT construction completion as determined by the ENGINEER.

4. Liquidated Damages; Extension of Time:

In accordance with Government Code Section 53069.85, CONTRACTOR agrees to forfeit and pay to the COUNTY as liquidated damages the sum of

Two Thousand Fifty (\$ 2,050.00)

for each and every calendar day's delay in finishing the work in excess of the summation of the number of working days prescribed herein and the number of working days granted for delays as prescribed in Section 6-6 of the STANDARD SPECIFICATIONS.

CONTRACTOR further agrees that such sum shall be deducted from payments due to or to become due to CONTRACTOR.

County of Orange
R.J. Noble Company

Asphalt Overlay Resurfacing of Foothill Blvd and Hewes

5. Change Orders:

COUNTY, through its Director, OC Public Works Department, or his designee, hereinafter referred to as "DIRECTOR," may approve contract cost increases in accordance with Public Contract Code Section 20142.

6. Wage Rates and Payroll Records:

Pursuant to the provisions of Section 1773 of the Labor Code of the State of California, the CONTRACTOR shall comply with the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime wages in this locality for each craft, classification or type of worker needed to execute the AGREEMENT. The rates are available from the Director of the Department of Industrial Relations at the following website: <http://www.dir.ca.gov/dlsr/DPreWageDetermination.htm>. The CONTRACTOR shall post a copy of such wage rates at the job site, and shall pay the adopted prevailing wage rates. The CONTRACTOR shall comply with the provisions of Sections 1775 and 1813 of Labor Code.

Travel and subsistence payments to each workman needed to execute the work shall be made as such travel and subsistence payments are defined in the applicable collective bargaining agreements filed in accordance with Section 1773.8 of the Labor Code.

The CONTRACTOR shall comply with the provisions of Section 1774 of the Labor Code. Failure to comply with the subject section will subject the CONTRACTOR to penalty and forfeiture provisions of Section 1775 of the Labor Code.

The COUNTY will not recognize any claim for additional compensation because of the payment by the CONTRACTOR of any wage rate in excess of the prevailing wage rate set forth in the AGREEMENT. The possibility of wage increases is one of the elements to be considered by the CONTRACTOR in determining his bid, and will not under any circumstances be considered as the basis of a claim against the COUNTY on the AGREEMENT.

The CONTRACTOR and subcontractors shall comply with Section 1777.6 which stipulates that it shall be unlawful to refuse to accept otherwise qualified employees as registered apprentices solely on the grounds of race, religious creed, color, national origin, ancestry, sex, or age, except as provided in Section 3077.

For the duration of the PROJECT, certified payroll records as described in Section 1776 of the Labor Code and/or statements of non-performance for CONTRACTOR and those of subcontractors performing work on the PROJECT shall be delivered to COUNTY on a weekly basis no later than ten (10) calendar days after the end of each weekly pay period.

County of Orange
R.J. Noble Company

Asphalt Overlay Resurfacing of Foothill Blvd and Hewes

7. Apprentices:

The CONTRACTOR shall familiarize himself with the provisions of Section 1777.5 of the Labor Code regarding employment of apprentices, and shall be responsible for compliance therewith, including compliance by his subcontractors.

CONTRACTOR agrees to comply with the provisions of Labor Code Section 1777.5 and any other applicable laws or regulations, including but not limited to, 8 California Code of Regulations, Section 230.1(A), pertaining to apprentices. Section 1777.5 shall not apply to contracts of general contractors or to contracts of specialty contractors not bidding for work through a general or prime contractor when the contracts of general contractors or those specialty contractors involve less than Thirty Thousand Dollars (\$30,000).

CONTRACTOR and subcontractor shall comply with Section 1777.6 of the Labor Code which stipulates that an employer or a labor union shall not refuse to accept otherwise qualified employees as registered apprentices on any public works on any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government Code, except as provided in Section 3077 of the Labor Code and Section 12940 of the Government Code.

8. Antitrust Claims:

In accordance with Public Contract Code Section 7103.5, by entering into a public works contract or a subcontract to supply goods, services, or materials pursuant to a public works contract, the CONTRACTOR or subcontractor offers and agrees to assign to the awarding body 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 purchases of goods, services, or materials pursuant to the public works contract or the subcontract. This assignment shall be made and become effective at the time the awarding body tenders final payment to the CONTRACTOR, without further acknowledgment by the parties. CONTRACTOR shall cause the above requirement to be inserted in all agreements with subcontractors.

9. Auditor - Controller Inspection:

CONTRACTOR agrees to permit COUNTY's Auditor-Controller, or his authorized representative (including auditors from a private auditing firm hired by COUNTY) or DIRECTOR, access during normal working hours to all books, accounts, records, reports, files and other papers or property of CONTRACTOR for the purpose of auditing any aspect of performance under this AGREEMENT. CONTRACTOR agrees to maintain such records in Orange County, California, for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated under this AGREEMENT or by law. CONTRACTOR agrees to allow interviews of any employees or others who might reasonably have information related to

County of Orange
R.J. Noble Company

Asphalt Overlay Resurfacing of Foothill Blvd and Hewes

such records. Further, CONTRACTOR agrees to include a similar right to COUNTY to audit records and interview staff of any SUBCONTRACTOR related to performance of this AGREEMENT.

Should CONTRACTOR cease to exist as a legal entity, CONTRACTOR's records pertaining to this AGREEMENT shall be forwarded to the surviving entity in a merger or acquisition, or in the event of liquidation, to the DIRECTOR.

10. Federally Assisted Contract:

If this AGREEMENT is funded in whole or in part by the Federal Government, CONTRACTOR agrees to comply with the Federal labor standards provisions set forth in the Special Provisions. If the Federal prevailing wage determinations differ from the State's, CONTRACTOR shall not pay less than the higher of the two rates.

11. State Audit:

Pursuant to and in accordance with Section 8546.7 of the California Government Code, in the event that this AGREEMENT involves expenditures of Public funds aggregating in excess of Ten Thousand Dollars (\$10,000), the parties shall be subject to the examination and audit of the Auditor General of the State of California for a period of three (3) years after final payment under this AGREEMENT.

The CONTRACTOR shall maintain records for all costs connected with the performance of this AGREEMENT including, but not limited to, the costs of administering the contract, materials, labor, equipment, rentals, permits, insurance, bonds, etc., for audit or inspection by County, State, or any other appropriate governmental agency during the three (3) year period.

12. Successors and Assigns:

The terms and provisions of this AGREEMENT shall be binding upon and inure to the benefit of the parties hereto and their successors and assigns.

13. Entirety:

This AGREEMENT contains the entire agreement between the parties with respect to the matters provided for herein.

14. Severability:

If any part of this AGREEMENT is held, determined, or adjudicated to be illegal, void, or unenforceable by a court of competent jurisdiction, the remainder of this AGREEMENT shall be given effect to the fullest extent reasonably possible.

15. Governing Law and Venue:

This AGREEMENT 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 do 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 AGREEMENT, 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 AGREEMENT is completed, and continuing until the expiration of any applicable limitations period. Furthermore, the parties have specifically agreed, as part of the consideration given and received for entering into this AGREEMENT, 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.

16. Child Support Enforcement Requirements:

In order to comply with child support enforcement requirements of the COUNTY, within thirty (30) days of notification of selection for award of CONTRACT but prior to official award of CONTRACT, CONTRACTOR agrees to furnish to DIRECTOR the following:

1. In the case of an individual CONTRACTOR, his/her name, date of birth, Social Security number, and residence address;
2. In the case of a CONTRACTOR doing business in a form other than as an individual, the name, date of birth, Social Security Number, and residence address of each individual who owns an interest of ten (10) percent or more in the CONTRACTOR's contracting entity;
3. A certification that the CONTRACTOR has fully complied with all the applicable federal and state reporting requirements regarding its employees; and
4. A certification that the CONTRACTOR has fully complied with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment and will continue to so comply.

It is expressly understood that this data will be transmitted by COUNTY to governmental agencies charged with the establishment and enforcement of child support orders.

Failure of the CONTRACTOR to timely submit the data and/or certifications required above or to comply with all federal and state reporting requirements for child support enforcement or to comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment may result in the CONTRACT being awarded to another CONTRACTOR, or, in the event a

CONTRACT has been issued, shall constitute a material breach of the CONTRACT. Failure to cure such breach within sixty (60) calendar days of notice from COUNTY shall constitute grounds for termination of the CONTRACT.

17. Charges, Fines, Penalties and Assessments

CONTRACTOR shall be responsible for any and all charges, fines, penalties, and/or assessments levied against the COUNTY by any governmental entity, administrative or regulatory agency having jurisdiction, resulting from any action or omission of the CONTRACTOR, CONTRACTOR's subcontractor, suppliers, and/or employees, unless due to the sole and active negligence of the COUNTY. COUNTY is authorized to deduct any such charge, fine penalty, or assessment from any payment COUNTY is otherwise required to make to CONTRACTOR.

If any such charge, fine, penalty, or assessment is levied against the COUNTY subsequent to the completion of the PROJECT as a result of any action or omission as set forth above, CONTRACTOR shall nevertheless be responsible to the COUNTY for the entire sum of such charge, fine, penalty, or assessment and agrees to pay the full amount due within sixty (60) calendar days of receiving an invoice from the COUNTY.

CONTRACTOR shall be liable to the COUNTY for attorney's fees and costs incurred by the COUNTY in enforcing the provisions of this paragraph.

18. Amendments

No alteration or variation of the terms of this AGREEMENT shall be valid unless made in writing and signed by the parties; no oral understanding or agreement not incorporated herein shall be binding on either of the parties; and no exceptions, alternatives, substitutes or revisions are valid or binding on COUNTY unless authorized by COUNTY in writing.

19. Acceptance

Unless otherwise agreed to in writing by COUNTY acceptance shall not be deemed complete unless in writing and until all the services have actually been received, inspected, and tested to the satisfaction of COUNTY.

20. Non-Discrimination

In the performance of this AGREEMENT, CONTRACTOR agrees that it will comply with the requirements of Section 1735 of the California Labor Code and not engage nor permit any subcontractors to engage in discrimination in employment of persons because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or sex of such persons. CONTRACTOR acknowledges that a violation of this provision shall subject CONTRACTOR to all the penalties imposed for a violation of Section 1720 et seq. of the California Labor Code.

21. Termination for Cause

- A. If CONTRACTOR refuses or fails to prosecute the work with such diligence as will insure its completion within the time specified in AGREEMENT or any extension thereof, or fails to complete said work within such time, the Board of Supervisors may and in accordance with Paragraph 40 below (Breach of Contract) by written notice to CONTRACTOR, terminate his right to proceed with the work or such part of the work as to which there has been delay. In such event, COUNTY may take over the work and prosecute the same to completion, by contract or otherwise, and may take possession of and utilize in completing the work such materials, appliances, and plant as may be on the site of the work and necessary therefor. Whether or not the CONTRACTOR's right to proceed with the work is terminated, he and his sureties shall be liable for any damage to the COUNTY resulting from his refusal or failure to complete the work within the specified time.
- B. If fixed and agreed liquidated damages are provided in AGREEMENT and if COUNTY so terminates CONTRACTOR's right to proceed, or CONTRACTOR otherwise fails to complete the work to final completion, the resulting damage will include, but not be limited to, such liquidated damages until such reasonable time as may be required for final completion of the work together with any increased costs occasioned by COUNTY in completing the work.
- C. If fixed and agreed liquidated damages are provided in AGREEMENT and if COUNTY does not so terminate CONTRACTOR's right to proceed, or CONTRACTOR otherwise fails to complete the work to final completion, the resulting damage will include, but not be limited to, such liquidated damages until the work is completed or accepted.
- D. CONTRACTOR's right to proceed shall not be so terminated nor the CONTRACTOR charged with resulting damage if:
- (1) The delay in the completion of the work arises from causes beyond the control and without the fault or negligence of CONTRACTOR, including, but not limited to, acts of God, acts of the public enemy, acts of COUNTY, acts of another contractor in the performance of a contract with COUNTY, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, other than normal weather, or delays of subcontractors or suppliers arising from causes beyond the control and without the fault or negligence of both CONTRACTOR and such subcontractors or suppliers; and
 - (2) CONTRACTOR within ten (10) days from the beginning of any such delays (unless DIRECTOR grants in writing a further period of time before the date of final payment under the AGREEMENT), notifies DIRECTOR in writing of the causes of delay.

DIRECTOR shall ascertain the facts and the extent of the delay and extend the time for completing the work when, in his judgment, the delay is justified. DIRECTOR shall make written findings, and the findings of fact shall be final and conclusive on the parties, subject only to appeal as provided by law.

E. The rights and remedies of COUNTY provided in this Section are in addition to any other rights and remedies provided by law or under this AGREEMENT.

22. Termination for Convenience

Notwithstanding any other provision of the AGREEMENT, the COUNTY may, at any time, and without any cause, terminate this AGREEMENT in whole or in part, upon not less than seven (7) days' written notice to CONTRACTOR. Such termination shall be effected by delivery to CONTRACTOR of a notice of termination specifying the effective date of the termination and the extent of the Work to be terminated. CONTRACTOR shall immediately stop work in accordance with the notice and comply with any other direction as may be specified in the notice or as provided subsequently by the COUNTY. COUNTY shall pay CONTRACTOR for the Work completed prior to the effective date of the termination, and such payment shall be CONTRACTOR's sole remedy under this AGREEMENT. Under no circumstances will CONTRACTOR be entitled to anticipatory or unearned profits, consequential damages, or other damages of any sort as a result of a termination or partial termination under this Paragraph. The CONTRACTOR shall insert in all subcontracts that the sub-consultant shall stop work on the date of and to the extent specified in a notice of termination, and shall require sub-consultants to insert the same condition in any lower tier subcontracts.

23. Consent to Breach Not Waiver

No term or provision of this AGREEMENT shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Any consent by any party to, or waiver of, a breach by the other, whether express or implied, shall not constitute consent to, waiver of, or excuse for any other different or subsequent breach.

24. Remedies Not Exclusive

The remedies for breach set forth in this AGREEMENT are cumulative as to one another and as to any other remedy provided by law, rather than exclusive; and the expression of certain remedies in this AGREEMENT does not preclude resort by either party from resorting to any other remedies provided by law.

25. Independent Contractor

CONTRACTOR shall be considered an independent CONTRACTOR and neither CONTRACTOR, its employees, nor anyone working under CONTRACTOR shall be considered an agent or an employee of COUNTY. Neither CONTRACTOR, its employees nor anyone working under CONTRACTOR shall qualify for workers' compensation or other fringe benefits of any kind through COUNTY.

County of Orange
R.J. Noble Company

Asphalt Overlay Resurfacing of Foothill Blvd and Hewes

26. Indemnification

CONTRACTOR agrees to indemnify, defend with counsel approved in writing by COUNTY, and hold COUNTY, their elected and appointed officials, officers, employees, agents and those special districts and agencies which County of Orange Board of Supervisors acts as the governing Board (“COUNTY INDEMNITEES”) harmless from any claims, demands or liability of any kind or nature, including but not limited to personal injury or property damage, arising from or related to the services, products or other performance provided by CONTRACTOR pursuant to this AGREEMENT. If judgment is entered against CONTRACTOR and COUNTY by a court of competent jurisdiction because of the concurrent active negligence of COUNTY or COUNTY INDEMNITEES, CONTRACTOR and COUNTY agree that liability will be apportioned as determined by the court. Neither party shall request a jury apportionment. Notwithstanding anything stated above, nothing contained herein shall relieve CONTRACTOR of any insurance requirements of obligations created elsewhere in this AGREEMENT.

27. Bills and Liens

CONTRACTOR shall pay promptly all indebtedness for labor, materials and equipment used in performance of the work. CONTRACTOR shall not permit any lien or charge to attach to the work or the premises, but if any does so attach, CONTRACTOR shall promptly procure its release and, in accordance with the requirements of the indemnification paragraph above, indemnify, defend, and hold COUNTY harmless and be responsible for payment of all costs, damages, penalties and expenses related to or arising from or related thereto.

28. Changes

CONTRACTOR shall make no changes in the work or perform any additional work without the COUNTY’S specific written approval.

29. Changes of Ownership

CONTRACTOR agrees that if there is a change or transfer in ownership of CONTRACTOR’S business prior to completion of this AGREEMENT, the new owners shall be required under terms of sale or other transfer to assume CONTRACTOR’S duties and obligations contained in this AGREEMENT and complete them to the satisfaction of COUNTY.

30. Force Majeure

CONTRACTOR shall not be assessed with liquidated damages or unsatisfactory performance penalties during any delay beyond the time named for the performance of this AGREEMENT caused by any act of God, war, civil disorder, employment strike or other cause beyond its reasonable control, provided CONTRACTOR gives written notice of the cause of the delay to COUNTY within thirty-six (36) hours of the start of the delay and CONTRACTOR avails himself of any available remedies.

County of Orange
R.J. Noble Company

Asphalt Overlay Resurfacing of Foothill Blvd and Hewes

31. Confidentiality

CONTRACTOR agrees to maintain the confidentiality of all COUNTY and COUNTY -related records and information pursuant to all statutory laws relating to privacy and confidentiality that currently exist or exist at any time during the term of this AGREEMENT. All such records and information shall be considered confidential and kept confidential by CONTRACTOR and CONTRACTOR'S staff, agents and employees.

32. Compliance with Laws

CONTRACTOR represents and warrants that services to be provided under this AGREEMENT shall fully comply, at CONTRACTOR'S expense, with all standards, laws, statutes, restrictions, ordinances, requirements, and regulations (collectively "laws"), including, but not limited to those issued by COUNTY in its governmental capacity and all other laws applicable to the services at the time services are provided to and accepted by COUNTY. CONTRACTOR acknowledges that COUNTY is relying on CONTRACTOR to ensure such compliance, and pursuant to the requirements of the indemnification paragraph above, CONTRACTOR agrees that in accordance with paragraph 26 above, it shall defend, indemnify and hold COUNTY and COUNTY INDEMNITEES harmless from all liability, damages, costs and expenses arising from or related to a violation of such laws.

33. OMITTED

34. Terms and Conditions

CONTRACTOR acknowledges that it has read and agrees to all terms and conditions included in this AGREEMENT.

35. Headings

The various headings and numbers herein, the grouping of provisions of this AGREEMENT into separate clauses and paragraphs, and the organization hereof are for the purpose of convenience only and shall not limit or otherwise affect the meaning hereof.

36. Calendar Days

Any reference to the word "day" or "days" herein means calendar day or calendar days, respectively, unless otherwise expressly provided.

37. Attorney Fees

In any action or proceeding to enforce or interpret any provision of this AGREEMENT, or where any provision hereof is validly asserted as a defense, each party shall bear its own attorney's fees, costs and expenses.

38. Interpretation

This AGREEMENT has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with in this AGREEMENT. In addition, each party has been represented by experienced and knowledgeable independent legal counsel of their own choosing or has knowingly declined to seek such counsel despite being encouraged and given the opportunity to do so. Each party further acknowledges that they have not been influenced to any extent whatsoever in executing this AGREEMENT by any other party hereto or by any person representing them, or both. Accordingly, any rule or law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this AGREEMENT against the party that has drafted it is not applicable and is waived. The provisions of this AGREEMENT shall be interpreted in a reasonable manner to affect the purpose of the parties and this AGREEMENT.

39. Notices

Any and all notices, requests demands and other communications contemplated, called for, permitted, or required to be given hereunder shall be in writing, except through the course of the parties' project managers' routine exchange of information and cooperation during the terms of the work and services. Any written communications shall be deemed to have been duly given upon actual in-person delivery, if delivery is by direct hand, or upon delivery on the actual day of receipt or no greater than four calendar days after being mailed by US certified or registered mail, return receipt requested, postage prepaid, whichever occurs first. The date of mailing shall count as the first day. All communications shall be addressed to the appropriate party at the address stated herein or such other address as the parties hereto may designate by written notice from time to time in the manner aforesaid.

For CONTRACTOR: Name: R.J. Noble Company
 Address: 15505 E. Lincoln
 City: Orange, CA
 Attn: Steve Mendoza
 Phone: (714) 637-1550
 Email: JenniferDeiongh@rjnoblecompany.com
 Fax: (714) 637-6321

For COUNTY: Name: OC Public Works/OC Construction
 Address: 1152 E. Fruit Street, Building #4
 City: Santa Ana, CA 92702
 Attn: Vinh Tran
 Phone: (714) 955-0210
 E-mail: Vinh.Tran@ocpw.ocgov.com

40. Breach of Contract

The failure of the CONTRACTOR to comply with any of the provisions, covenants or conditions of this AGREEMENT shall be a material breach of this AGREEMENT. In such event the COUNTY may, and in addition to any other remedies available at law, in equity, or otherwise specified in this AGREEMENT:

1. Afford the CONTRACTOR written notice of the breach and ten (10) calendar days or such shorter time that may be specified in this AGREEMENT within which to cure the breach;
2. Discontinue payment to the CONTRACTOR for and during the period in which the CONTRACTOR is in breach; and
3. Offset against any monies billed by the CONTRACTOR but yet unpaid by the COUNTY those monies disallowed pursuant to the above.

41. Default

In the event any equipment or service furnished by the CONTRACTOR in the performance of this AGREEMENT should fail to conform to the specifications therein within one (1) calendar year from the COUNTY's acceptance of the equipment or service, or any performance period specifically specified within the specifications or AGREEMENT, whichever is greater, the COUNTY may reject same, and it shall become the duty of the CONTRACTOR to reclaim and remove the items without expense to the COUNTY and to immediately replace all such rejected equipment or service with others conforming to such specifications, provided that should the CONTRACTOR fail, neglect or refuse to do so within one hundred and twenty (120) calendar days, the COUNTY shall have the right to purchase on the open market a corresponding quantity of any such equipment or service and to deduct from any monies due or that may thereafter become due to the CONTRACTOR the difference between the price specified in this AGREEMENT and the actual cost to the COUNTY.

In the event the CONTRACTOR shall fail to make prompt delivery as specified of any equipment or service, the same conditions as to the rights of the COUNTY to purchase on the open market and to reimbursement set forth above shall apply, except as otherwise provided in this AGREEMENT.

"Any loss or damage sustained by the COUNTY in procuring any equipment or service which the CONTRACTOR agreed to supply under this AGREEMENT but, by reason of the default or breach by the CONTRACTOR, failed to supply, shall be borne and paid for by the CONTRACTOR. Default shall include failure to carry out any of the requirements of this AGREEMENT, including, but not limited to not providing enough properly skilled workers or proper materials, persistently disregarding laws and or ordinances, not proceeding with the work as agreed to herein, or otherwise substantially violating any provision of this AGREEMENT."

County of Orange
R.J. Noble Company

Asphalt Overlay Resurfacing of Foothill Blvd and Hewes

42. Conflict of Interest Contractor Personnel

The CONTRACTOR shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with the best interests of the COUNTY. This obligation shall apply to the CONTRACTOR; the CONTRACTOR's employees, agents, and relatives; sub-tier contractors; and third parties associated with accomplishing work and services hereunder. The CONTRACTOR's efforts shall include, but not be limited to establishing precautions to prevent its employees or agents from making, receiving, providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to appear to influence individuals to act contrary to the best interests of the COUNTY.

43. Non-Employment of COUNTY Personnel

CONTRACTOR agrees that no employee of COUNTY or COUNTY INDEMNITEES who is involved in this PROJECT shall be given or offered employment by CONTRACTOR during the life of this AGREEMENT regardless of the assignments said employee may be given or the days or hours employee may work. By accepting this AGREEMENT, CONTRACTOR agrees, for the duration of this AGREEMENT, not to offer or discuss employment with any COUNTY or COUNTY INDEMNITEES employee involved in the performance of this AGREEMENT.

44. Ownership of Documents

The COUNTY has permanent ownership of all directly connected and derivative materials produced under this AGREEMENT by the CONTRACTOR. All documents, reports and other incidental or derivative work or materials furnished hereunder shall become and remain the sole property of the COUNTY and may be used by the COUNTY as it may require without additional cost to the COUNTY. None of the documents, reports and other incidental or derivative work or furnished materials shall be used by the CONTRACTOR without the express written consent of the COUNTY.

45. Title to Data

All materials, documents, data or information obtained from the COUNTY data files or any COUNTY medium furnished to the CONTRACTOR in the performance of this AGREEMENT will at all times remain the property of the COUNTY. Such data or information may not be used or copied for direct or indirect use by the CONTRACTOR after completion or termination of this AGREEMENT without the express written consent of the COUNTY. All materials, documents, data or information, including copies furnished to CONTRACTOR by COUNTY must be returned to the COUNTY at the end of this AGREEMENT unless otherwise authorized in writing by the ENGINEER.

County of Orange
R.J. Noble Company

Asphalt Overlay Resurfacing of Foothill Blvd and Hewes

46. Availability of Funds

The obligation of COUNTY is subject to the availability of funds appropriated for this purpose, and nothing herein shall be construed as obligating the COUNTY to expend or as involving the COUNTY in any contract or other obligation for future payment of money in excess of appropriations authorized by law.

47. Employee Eligibility Verification

The CONTRACTOR warrants that it fully complies with all Federal and State statutes and regulations regarding the employment of aliens and others and that all its employees performing work under this AGREEMENT meet the citizenship or alien status requirement set forth in Federal statutes and regulations. The CONTRACTOR shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by Federal or State statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended. The CONTRACTOR shall retain all such documentation for all covered employees for the period prescribed by the law. The CONTRACTOR shall indemnify, defend with counsel approved in writing by COUNTY, and hold harmless, the COUNTY, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against the CONTRACTOR or the COUNTY or both in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing work under this AGREEMENT.

48. Registration of Contractors

CONTRACTOR and all subcontractors must comply with the requirements of California Labor Code Section 1771.1(a), pertaining to registration of CONTRACTORS pursuant to California Labor Code Section 1725.5. Registration and all related requirements of those sections must be maintained throughout the performance of the CONTRACT.

49. Contingency of Funding

CONTRACTOR acknowledges that funding or portions of funding for this AGREEMENT may also be contingent upon receipt of funds from, and/or appropriation of funds by, the State of California (or other funding agency) to COUNTY. If such funding and/or appropriations are not forthcoming, or are otherwise limited, COUNTY may immediately terminate or modify this AGREEMENT without penalty.

50. Dispute Resolution, Dispute Resolution Board

- A. California Public Contract Code Section 9204 establishes a claim resolution process applicable to any claim by a contractor related to a public works project. The terms “claim” and “public works project” are defined in Section 9204(c)(1)(A)-(C) and (c)(4) respectively. For all Public

works claims, COUNTY and CONTRACTOR shall follow the steps set forth in Public Contracts Code 9204 and summarized here as follows:

1. Upon receipt of a claim pursuant to this section, the public entity to which the claim applies shall conduct a reasonable review of the claim and, within a period not to exceed 45 days, shall provide the claimant a written statement identifying what portion of the claim is disputed and what portion is undisputed. Upon receipt of a claim, a public entity and a contractor may, by mutual agreement, extend the time period provided in this subdivision. The claimant shall furnish reasonable documentation to support the claim.
2. If the public entity needs approval from its governing body to provide the claimant a written statement identifying the disputed portion and the undisputed portion of the claim, and the governing body does not meet within the 45 days or within the mutually agreed to extension of time following receipt of a claim sent by registered mail or certified mail, return receipt requested, the public entity shall have up to three days following the next duly publicly noticed meeting of the governing body after the 45-day period, or extension, expires to provide the claimant a written statement identifying the disputed portion and the undisputed portion.
3. Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the public entity issues its written statement. If the public entity fails to issue a written statement, paragraph 8 shall apply.
4. If the claimant disputes the public entity's written response, or if the public entity fails to respond to a claim issued pursuant to this section within the time prescribed, the claimant may demand in writing an informal conference to meet and confer for settlement of the issues in dispute. Upon receipt of a demand in writing sent by registered mail or certified mail, return receipt requested, the public entity shall schedule a meet and confer conference within 30 days for settlement of the dispute.
5. Within 10 business days following the conclusion of the meet and confer conference, if the claim or any portion of the claim remains in dispute, the public entity shall provide the claimant a written statement identifying the portion of the claim that remains in dispute and the portion that is undisputed. Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the public entity issues its written statement. Any disputed portion of the claim, as identified by the contractor in writing, shall be submitted to nonbinding mediation, with the public entity and the claimant sharing the associated costs equally. The public entity and claimant shall mutually agree to a mediator within 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 neutral third party to mediate with regard to the disputed portion of the claim. Each party shall bear the fees and costs charged by its respective mediator in connection with the selection of the neutral mediator. If mediation is unsuccessful, the parts of the claim remaining in dispute shall be subject to applicable procedures outside this section.
6. For purposes of this section, mediation includes any nonbinding process, such as neutral evaluation or a dispute resolution board, in which an independent third party or board assists the parties in dispute resolution through negotiation or by issuance of an evaluation. Any mediation

utilized shall conform to the timeframes in this section. The County has elected to use a dispute resolution board. The procedures for the dispute review are set forth below.

7. Unless otherwise agreed to by the public entity and the contractor in writing, the mediation conducted pursuant to this section shall excuse any further obligation under Section 20104.4 to mediate after litigation has been commenced.

8. Failure by the public entity to respond to a claim from a contractor within the time periods described in this subdivision or to otherwise meet the time requirements of this section shall result in the claim being deemed rejected in its entirety. A claim that is denied by reason of the public entity's failure to have responded to a claim, or its failure to otherwise meet the time requirements of this section, shall not constitute an adverse finding with regard to the merits of the claim or the responsibility or qualifications of the claimant. Amounts not paid in a timely manner as required by this section shall bear interest at 7 percent per annum.

9. If a subcontractor or a lower tier subcontractor lacks legal standing to assert a claim against a public entity because privity of contract does not exist, the contractor may present to the public entity a claim on behalf of a subcontractor or lower tier subcontractor. A subcontractor may request in writing, either on his or her own behalf or on behalf of a lower tier subcontractor, that the contractor present a claim for work which was performed by the subcontractor or by a lower tier subcontractor on behalf of the subcontractor. The subcontractor requesting that the claim be presented to the public entity shall furnish reasonable documentation to support the claim. Within 45 days of receipt of this written request, the contractor shall notify the subcontractor in writing as to whether the contractor presented the claim to the public entity and, if the original contractor did not present the claim, provide the subcontractor with a statement of the reasons for not having done so.

10. Upon receipt of a claim, the parties may mutually agree to waive, in writing, mediation and proceed directly to the commencement of a civil action or binding arbitration.

(B) The DRB is a 3-member board that CONTRACTOR and COUNTY establish.

DRB Member Selection

Within 45 days of CONTRACT approval, CONTRACTOR and COUNTY must select DRB members and establish the DRB using the following procedure:

1. CONTRACTOR and COUNTY each nominates a DRB member candidate who is on the COUNTY's approved list.

1.1. Be knowledgeable in the type of construction and contract documents anticipated by the CONTRACT

1.2. Have completed training by the Dispute Resolution Board Foundation

- 1.3. Have no prior direct involvement on this CONTRACT
- 1.4. Have no financial interest in the CONTRACT or with the parties, subcontractors, suppliers, consultants, or associated legal or business services within 6 months before award and during the CONTRACT, except for payments for COUNTY DRA or DRB services, or payments for retirement or pensions from either party not tied to, dependent on, or affected by the net worth of the party
2. CONTRACTOR and COUNTY must request a disclosure statement from each nominated DRB member candidate and must each furnish it to the other party. The statement must include:
 - 2.1. Resume of the candidate's experience
 - 2.2. Declaration statement that describes past, present, anticipated, and planned professional or personal relationships with each of the following:
 - 2.2.1. Parties involved in the CONTRACT
 - 2.2.2. Parties' principals
 - 2.2.3. Parties' counsel
 - 2.2.4. Associated subcontractors and suppliers
3. CONTRACTOR and COUNTY are allowed:
 - 3.1. One-time objection to the other's candidate without stating a reason
 - 3.2. Objection to any of the other's subsequent candidates based on a specific breach of the candidate's responsibilities or qualifications under items 1 and 2 above
4. If CONTRACTOR OR COUNTY objects to the other's candidate, the party whose candidate was objected to must nominate another DRB candidate within 15 days.
5. The 1st candidate from a party that receives no objection becomes that party's DRB member.
6. CONTRACTOR and COUNTY each provide written notification to that party's respective selected DRB member.
7. Within 15 days of their notifications, the selected DRB members recommend to CONTRACTOR and COUNTY the 3rd DRB member candidate and provide that candidate's disclosure statement.
8. Within 15 days of the recommendation, CONTRACTOR and COUNTY must each notify the first 2 DRB members whether you approve or disapprove of the recommended 3rd DRB member candidate.

9. If the 2 DRB members cannot agree on the 3rd DRB candidate, they will submit a list of candidates to CONTRACTOR and COUNTY for final selection and approval.
10. If the 2 DRB members do not recommend a 3rd DRB candidate within 15 days of notification of their selections, or if CONTRACTOR and COUNTY do not agree on the 3rd DRB member candidate within 15 days of the recommendation, or if CONTRACTOR and COUNTY do not agree on any of the candidates on the list provided by the first 2 selected DRB members, CONTRACTOR and COUNTY each must select 3 candidates from the current list of arbitrators certified by the Public Works Contract Arbitration Committee established by Pub Cont Code § 10245 et seq. who will be willing to serve as a DRB member. The first 2 selected DRB members must select the 3rd member in a blind draw of these 6 candidates.
11. The 3 DRB members then decide which of the three will act as the DRB chairman. If CONTRACTOR and COUNTY do not agree with the selected chairman, the 3rd member will act as the DRB chairman.

DRB Member Replacement

The service of a DRB member may end at any time with a notice of at least 15 days if any of the following occurs:

1. A member resigns
2. The COUNTY replaces its selected member
3. CONTRACTOR replaces its selected member
4. CONTRACTOR and COUNTY's selected members replace the 3rd member
5. Either CONTRACTOR or COUNTY replace any member for failing to comply with the required employment or financial disclosure conditions of DRB membership as described in the Contract and in the Dispute Resolution Board Agreement form.

Replacing any DRB member must be accomplished by written notification to the DRB and the other party with substantiation for replacing the member.

A replacement DRB member is selected the same way as the original DRB member. Selecting a replacement must start upon determination of the need for a replacement and must be completed within 15 days. The Dispute Resolution Board Agreement form must be amended to reflect the change to the DRB.

DRB Progress Meetings

CONTRACTOR and COUNTY must periodically meet with the DRB and visit the job site so the DRB members can keep abreast of construction activities and develop familiarity with the work in progress.

The progress meetings must occur at the start of the project and at least once every 4 months after that.

Both parties must attend each progress meeting.

CONTRACTOR and COUNTY may agree to waive scheduled progress meetings when the only work remaining is plant establishment.

DRB Traditional Dispute Meeting

If CONTRACTOR chooses to pursue a claim after the meet and confer requirements of California Public Contract Code 9204, the claim shall be referred to the DRB within 21 days after receiving the Engineer's response to CONTRACTOR's Supplemental Potential Claim Record form unless a facilitated dispute resolution is included in the signed original partnering charter, in which case, the referral shall be made within 41 days after receiving the Engineer's response. The dispute meeting must be held no sooner than 30 days and no later than 60 days after the DRB receives the referral unless CONTRACTOR and COUNTY otherwise agree.

At least 15 days before the scheduled dispute meeting, each party must furnish the DRB documentation that supports its position and any additional information requested by the DRB.

If the DRB requests additional information within 10 days after the dispute meeting, the party receiving the request must furnish this information within 10 days of receiving the request.

The DRB provides a written recommendation report within 30 days of the dispute meeting unless CONTRACTOR and COUNTY agree to allow more time.

Within 10 days of receiving the DRB's recommendation report, either CONTRACTOR or COUNTY may request clarification of any part of the report. Only one request for clarification from each party is allowed per dispute.

Within 30 days after receiving the DRB's recommendation, each party must furnish a written response to the DRB indicating acceptance or rejection of the recommendation. If a party rejects the recommendation and has new information that supports its position, the party may request reconsideration. The reconsideration request must be made within 30 days after receiving the DRB's recommendation. Only one request for reconsideration from each party is allowed per dispute.

If both CONTRACTOR and COUNTY accept the DRB's recommendation but cannot agree on the time or payment adjustment within 60 days of accepting the recommendation, either party may request that the DRB recommend an adjustment.

County and the Contractor shall bear the costs and expenses of the DRB equally.

Each DRB member shall be compensated at an agreed rate of \$1,500 per day for time spent per meeting either at the start of the project, for scheduled progress, or dispute meetings. A member serving on more than one County DRB, regardless of the number of meetings per day shall not be paid more than the agreed rate per day. The agreed rate shall be considered full compensation for on-site time, travel expenses, transportation, lodging, time for travel, and incidentals for each day or portion thereof that the DRB member is at an authorized DRB meeting.

No additional compensation will be made for time spent by DRB members in review and research activities outside the official DRB meetings unless that time, such as time spent evaluating and preparing recommendations on specific issues presented to the DRB, has been specifically agreed to in advance by CONTRACTOR and COUNTY. Time away from the project, which has been specifically agreed to in advance by CONTRACTOR and COUNTY, will be compensated at an agreed rate of \$150 per hour. The agreed amount of \$150 per hour shall include all incidentals including expenses for telephone, fax, and computer services.

COUNTY will provide conference facilities for DRB meetings at no cost to the CONTRACTOR.

The CONTRACTOR shall make direct payments to each DRB member for their participation in authorized meetings and approved hourly rate charges from invoices submitted by each DRB member.

COUNTY will reimburse the CONTRACTOR for COUNTY's share of the costs of the DRB process.

There will be no markups applied to expenses connected with the DRB, either by the DRB members or by the CONTRACTOR when requesting payment of COUNTY's share of DRB expenses. Regardless of the DRB recommendation, neither party shall be entitled to reimbursement of DRB costs from the other party.

The CONTRACTOR shall submit invoice(s) from each DRB member and include evidence of every payment to each DRB member in the form of a cancelled check or bank statement within 30 days of payment.

The cost of technical services requested by the DRB will be borne equally by the COUNTY and CONTRACTOR. There will be no markups for these costs. The COUNTY will not pay CONTRACTOR's cost for preparing for and attending a dispute resolution meeting.

A sample "Dispute Resolution Board Agreement" is attached hereto as Exhibit "A".

Full compensation for conforming to the requirements of this Section 48 will be paid on a time and materials basis not to exceed the LUMP SUM price of \$30,000.00.

County of Orange
R.J. Noble Company

Asphalt Overlay Resurfacing of Foothill Blvd and Hewes

IN WITNESS WHEREOF, the PARTIES hereto have executed this CONTRACT on the dates first hereinabove written:

R.J. NOBLE COMPANY
a California Corporation,

Date: 5/16/2017

By Craig Porter
Signature 331483E22BEE4D7...
Craig Porter VP

Print Name & Title

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

Date: 5/16/2017

By Steve Mendoza
Signature 6002F847325C470...
Steve Mendoza Secretary

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 Justin A Graham n A Graham
Signature 3B7688FE3BD64E0...
Deputy

*** Note:** Pursuant to the requirements of the California Corporations Code Section 313, one of the following two methods must be used by a corporation when it enters into a contract:

- 1) Two people must sign the document; One of them must be the Chairman of the Board, the President or any Vice-President. The other must be the Secretary, any Assistant Secretary, the Chief Financial Officer or any Assistant Treasurer.
- 2) One Corporate officer may sign the document, providing that written evidence of the officer's authority to bind the corporation with only his or her signature must be provided. This evidence would ideally be a corporate resolution.

FEDERALLY REQUIRED PROVISIONS

The following Federally required clauses supersede and control only where they conflict with the AGREEMENT or Attachments thereto. In the event of a potential ambiguity between the Federal clauses and the remainder of the AGREEMENT, COUNTY will be solely responsible for interpreting how to implement the AGREEMENT.

EXHIBIT 12-G REQUIRED FEDERAL-AID CONTRACT LANGUAGE
(For Local Assistance Construction Projects)

The following language must be incorporated into all Local Assistance Federal-aid construction contracts.
The following language, with minor edits, was taken from the Code of Federal Regulations.

- 1. DISADVANTAGED BUSINESS ENTERPRISES (DBE).....26**
 - A. DBE COMMITMENT SUBMITTAL.....26**
 - B. GOOD FAITH EFFORTS SUBMITTAL.....27**
 - C. EXHIBIT 15-G - CONSTRUCTION CONTRACT DBE COMMITMENT.....28**
 - D. SUBCONTRACTOR AND DISADVANTAGED BUSINESS ENTERPRISE RECORDS.....28**
 - E. PERFORMANCE OF DISADVANTAGED BUSINESS ENTERPRISES.....28**
- 2. BID OPENING.....30**
- 3. BID RIGGING.....30**
- 4. CONTRACT AWARD.....30**
- 5. CONTRACTOR LICENSE.....30**
- 6. CHANGED CONDITIONS.....30**
 - A. DIFFERING SITE CONDITION.....30**
 - B. SUSPENSIONS OF WORK ORDERED BY THE ENGINEER.....30**
 - C. SIGNIFICANT CHANGES IN THE CHARACTER OF WORK.....31**
- 7. BEGINNING OF WORK, TIME OF COMPLETION AND LIQUIDATED DAMAGES.....32**
- 8. BUY AMERICA.....32**
- FURNISH STEEL AND IRON MATERIALS TO BE INCORPORATED INTO THE WORK WITH CERTIFICATES OF COMPLIANCE. STEEL AND IRON MATERIALS MUST BE PRODUCED IN THE U.S. EXCEPT.....32**
- 9. QUALITY ASSURANCE.....32**
- 10. PROMPT PAYMENT OF FUNDS WITHHELD TO SUBCONTRACTORS.....33**
- 11. FORM FHWA-1273 REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONTRACTS.....33**
- 12. FEMALE AND MINORITY GOALS.....18**
- 13. FEDERAL TRAINEE PROGRAM.....19**
- 14. TITLE VI ASSURANCE.....21**
- 15. USE OF UNITED STATES-FLAG VESSELS (CARGO PREFERENCE ACT).....22**

1. DISADVANTAGED BUSINESS ENTERPRISES (DBE)

Under 49 CFR 26.13(b):

The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

Take necessary and reasonable steps to ensure that DBEs have opportunity to participate in the contract (49 CFR 26).

To ensure equal participation of DBEs provided in 49 CFR 26.5, the Agency shows a goal for DBEs.

Make work available to DBEs and select work parts consistent with available DBE subcontractors and suppliers.

Meet the DBE goal shown elsewhere in these special provisions or demonstrate that you made adequate good faith efforts to meet this goal.

It is your responsibility to verify that the DBE firm is certified as DBE at date of bid opening. For a list of DBEs certified by the California Unified Certification Program, go to: http://www.dot.ca.gov/hq/bep/find_certified.htm.

All DBE participation will count toward the California Department of Transportation's federally mandated statewide overall DBE goal.

Credit for materials or supplies you purchase from DBEs counts towards the goal in the following manner:

- 100 percent counts if the materials or supplies are obtained from a DBE manufacturer.
- 60 percent counts if the materials or supplies are obtained from a DBE regular dealer.
- Only fees, commissions, and charges for assistance in the procurement and delivery of materials or supplies count if obtained from a DBE that is neither a manufacturer nor regular dealer. 49 CFR 26.55 defines "manufacturer" and "regular dealer."

You receive credit towards the goal if you employ a DBE trucking company that performs a commercially useful function as defined in 49 CFR 26.55(d)(1) through (4) and (6).

a. DBE Commitment Submittal

Submit the Exhibit 15-G *Construction Contract DBE Commitment* form, included in the Bid book. If the form is not submitted with the bid, remove the form from the Bid book before submitting your bid.

If the DBE Commitment form is not submitted with the bid, the apparent low bidder, the 2nd low bidder, and the 3rd low bidder must complete and submit the DBE Commitment form to the Agency. DBE Commitment form must be received by the Agency no later than 4:00 p.m. on the 4th business day after bid opening.

Other bidders do not need to submit the DBE Commitment form unless the Agency requests it. If the Agency requests you to submit a DBE Commitment form, submit the completed form within 4 business days of the request.

Submit written confirmation from each DBE stating that it is participating in the contract. Include confirmation with the DBE Commitment form. A copy of a DBE's quote will serve as written confirmation that the DBE is participating in the contract.

If you do not submit the DBE Commitment form within the specified time, the Agency will find your bid nonresponsive.

b. Good Faith Efforts Submittal

If you have not met the DBE goal, complete and submit the DBE Information - Good Faith Efforts, Exhibit 15-H, form with the bid showing that you made adequate good faith efforts to meet the goal. Only good faith efforts directed towards obtaining participation by DBEs will be considered. If good faith efforts documentation is not submitted with the bid, it must be received by the Agency no later than 4:00 p.m. on the 4th business day after bid opening.

If your DBE Commitment form shows that you have met the DBE goal or if you are required to submit the DBE Commitment form, you must also submit good faith efforts documentation within the specified time to protect your eligibility for award of the contract in the event the Agency finds that the DBE goal has not been met.

Good faith efforts documentation must include the following information and supporting documents, as necessary:

1. Items of work you have made available to DBE firms. Identify those items of work you might otherwise perform with your own forces and those items that have been broken down into economically feasible units to facilitate DBE participation. For each item listed, show the dollar value and percentage of the total contract. It is your responsibility to demonstrate that sufficient work to meet the goal was made available to DBE firms.
2. Names of certified DBEs and dates on which they were solicited to bid on the project. Include the items of work offered. Describe the methods used for following up initial solicitations to determine with certainty if the DBEs were interested, and the dates of the follow-up. Attach supporting documents such as copies of letters, memos, facsimiles sent, telephone logs, telephone billing statements, and other evidence of solicitation. You are reminded to solicit certified DBEs through all reasonable and available means and provide sufficient time to allow DBEs to respond.
3. Name of selected firm and its status as a DBE for each item of work made available. Include name, address, and telephone number of each DBE that provided a quote and their price quote. If the firm selected for the item is not a DBE, provide the reasons for the selection.
4. Name and date of each publication in which you requested DBE participation for the project. Attach copies of the published advertisements.
5. Names of agencies and dates on which they were contacted to provide assistance in contacting, recruiting, and using DBE firms. If the agencies were contacted in writing, provide copies of supporting documents.
6. List of efforts made to provide interested DBEs with adequate information about the plans, specifications, and requirements of the contract to assist them in responding to a solicitation. If you have provided information, identify the name of the DBE assisted, the nature of the information provided, and date of contact. Provide copies of supporting documents, as appropriate.
7. List of efforts made to assist interested DBEs in obtaining bonding, lines of credit, insurance, necessary equipment, supplies, and materials, excluding supplies and equipment that the DBE subcontractor purchases or leases from the prime contractor or its affiliate. If such assistance is provided by you, identify the name of the DBE assisted, nature of the assistance offered, and date assistance was provided. Provide copies of supporting documents, as appropriate.

8. Any additional data to support demonstration of good faith efforts.

The Agency may consider DBE commitments of the 2nd and 3rd bidders when determining whether the low bidder made good faith efforts to meet the DBE goal.

c. Exhibit 15-G - Construction Contract DBE Commitment

Complete and sign Exhibit 15-G *Construction Contract DBE Commitment* included in the contract documents regardless of whether DBE participation is reported.

Provide written confirmation from each DBE that the DBE is participating in the Contract. A copy of a DBE's quote serves as written confirmation. If a DBE is participating as a joint venture partner, the Agency encourages you to submit a copy of the joint venture agreement.)

d. Subcontractor and Disadvantaged Business Enterprise Records

Use each DBE subcontractor as listed on Exhibit 12-B *Bidder's List of Subcontractors (DBE and Non-DBE)* and Exhibit 15-G *Construction Contract DBE Commitment* form unless you receive authorization for a substitution.

The Agency requests the Contractor to:

1. Notify the Engineer of any changes to its anticipated DBE participation
2. Provide this notification before starting the affected work
3. Maintain records including:
 - Name and business address of each 1st-tier subcontractor
 - Name and business address of each DBE subcontractor, DBE vendor, and DBE trucking company, regardless of tier
 - Date of payment and total amount paid to each business

If you are a DBE contractor, include the date of work performed by your own forces and the corresponding value of the work.

Before the 15th of each month, submit a Monthly DBE Trucking Verification form.

If a DBE is decertified before completing its work, the DBE must notify you in writing of the decertification date. If a business becomes a certified DBE before completing its work, the business must notify you in writing of the certification date. Submit the notifications. On work completion, complete a Disadvantaged Business Enterprises (DBE) Certification Status Change, Exhibit 17-O, form. Submit the form within 30 days of contract acceptance.

Upon work completion, complete Exhibit 17-F *Final Report – Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors*. Submit it within 90 days of contract acceptance. The Agency will withhold \$10,000 until the form is submitted. The Agency releases the withhold upon submission of the completed form.

e. Performance of Disadvantaged Business Enterprises

DBEs must perform work or supply materials as listed in the Exhibit 15-G *Construction Contract DBE Commitment* form, included in the Bid.

Do not terminate or substitute a listed DBE for convenience and perform the work with your own forces or obtain materials from other sources without authorization from the Agency.

The Agency authorizes a request to use other forces or sources of materials if it shows any of the following justifications:

1. Listed DBE fails or refuses to execute a written contract based on plans and specifications for the project.
2. You stipulated that a bond is a condition of executing the subcontract and the listed DBE fails to meet your bond requirements.
3. Work requires a contractor's license and listed DBE does not have a valid license under Contractors License Law.
4. Listed DBE fails or refuses to perform the work or furnish the listed materials.
5. Listed DBE's work is unsatisfactory and not in compliance with the contract.
6. Listed DBE is ineligible to work on the project because of suspension or debarment.
7. Listed DBE becomes bankrupt or insolvent.
8. Listed DBE voluntarily withdraws with written notice from the Contract
9. Listed DBE is ineligible to receive credit for the type of work required.
10. Listed DBE owner dies or becomes disabled resulting in the inability to perform the work on the Contract.
11. Agency determines other documented good cause.

Notify the original DBE of your intent to use other forces or material sources and provide the reasons. Provide the DBE with 5 days to respond to your notice and advise you and the Agency of the reasons why the use of other forces or sources of materials should not occur. Your request to use other forces or material sources must include:

1. One or more of the reasons listed in the preceding paragraph.
2. Notices from you to the DBE regarding the request.
3. Notices from the DBEs to you regarding the request.

If a listed DBE is terminated or substituted, you must make good faith efforts to find another DBE to substitute for the original DBE. The substitute DBE must perform at least the same amount of work as the original DBE under the contract to the extent needed to meet the DBE goal.

The substitute DBE must be certified as a DBE at the time of request for substitution.

Unless the Agency authorizes (1) a request to use other forces or sources of materials or (2) a good faith effort for a substitution of a terminated DBE, the Agency does not pay for work listed on the Exhibit 15-G *Construction Contract DBE Commitment* form unless it is performed or supplied by the listed DBE or an authorized substitute.

County of Orange
R.J. Noble Company

Asphalt Overlay Resurfacing of Foothill Blvd and Hewes

2. **BID OPENING** The Agency publicly opens and reads bids at the time and place shown on the *Notice to Bidders*.

3. **BID RIGGING** The U.S. Department of Transportation (DOT) provides a toll-free hotline to report bid rigging activities. Use the hotline to report bid rigging, bidder collusion, and other fraudulent activities. The hotline number is (800) 424-9071. The service is available 24 hours 7 days a week and is confidential and anonymous.. The hotline is part of the DOT's effort to identify and investigate highway construction contract fraud and abuse and is operated under the direction of the DOT Inspector General.

4. **CONTRACT AWARD** If the Agency awards the contract, the award is made to the lowest responsible and responsive bidder.

5. **CONTRACTOR LICENSE**

The Contractor must be properly licensed as a contractor from contract award through Contract acceptance (Public Contract Code § 10164).

6. **CHANGED CONDITIONS**

a. Differing Site Conditions

1. During the progress of the work, if subsurface or latent physical conditions are encountered at the site differing materially from those indicated in the contract or if unknown physical conditions of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in the work provided for in the contract, are encountered at the site, the party discovering such conditions shall promptly notify the other party in writing of the specific differing conditions before the site is disturbed and before the affected work is performed.
2. Upon written notification, the engineer will investigate the conditions, and if it is determined that the conditions materially differ and cause an increase or decrease in the cost or time required for the performance of any work under the contract, an adjustment, excluding anticipated profits, will be made and the contract modified in writing accordingly. The engineer will notify the contractor of the determination whether or not an adjustment of the contract is warranted.
3. No contract adjustment which results in a benefit to the contractor will be allowed unless the contractor has provided the required written notice.
4. No contract adjustment will be allowed under this clause for any effects caused on unchanged work. (This provision may be omitted by the Local Agency, at their option.)

b. Suspensions of Work Ordered by the Engineer

1. If the performance of all or any portion of the work is suspended or delayed by the engineer in writing for an unreasonable period of time (not originally anticipated, customary, or inherent to the construction industry) and the contractor believes that additional compensation and/or contract time is due as a result of such suspension or delay, the contractor shall submit to the

engineer in writing a request for adjustment within 7 calendar days of receipt of the notice to resume work. The request shall set forth the reasons and support for such adjustment.

2. Upon receipt, the engineer will evaluate the contractor's request. If the engineer agrees that the cost and/or time required for the performance of the contract has increased as a result of such suspension and the suspension was caused by conditions beyond the control of and not the fault of the contractor, its suppliers, or subcontractors at any approved tier, and not caused by weather, the engineer will make an adjustment (excluding profit) and modify the contract in writing accordingly. The contractor will be notified of the engineer's determination whether or not an adjustment of the contract is warranted.
3. No contract adjustment will be allowed unless the contractor has submitted the request for adjustment within the time prescribed.
4. No contract adjustment will be allowed under this clause to the extent that performance would have been suspended or delayed by any other cause, or for which an adjustment is provided or excluded under any other term or condition of this contract.

c. Significant Changes in the Character of Work

1. The engineer reserves the right to make, in writing, at any time during the work, such changes in quantities and such alterations in the work as are necessary to satisfactorily complete the project. Such changes in quantities and alterations shall not invalidate the contract nor release the surety, and the contractor agrees to perform the work as altered.
2. If the alterations or changes in quantities significantly change the character of the work under the contract, whether such alterations or changes are in themselves significant changes to the character of the work or by affecting other work cause such other work to become significantly different in character, an adjustment, excluding anticipated profit, will be made to the contract. The basis for the adjustment shall be agreed upon prior to the performance of the work. If a basis cannot be agreed upon, then an adjustment will be made either for or against the contractor in such amount as the engineer may determine to be fair and equitable.
3. If the alterations or changes in quantities do not significantly change the character of the work to be performed under the contract, the altered work will be paid for as provided elsewhere in the contract.
4. The term "significant change" shall be construed to apply only to the following circumstances:
 - When the character of the work as altered differs materially in kind or nature from that involved or included in the original proposed construction; or
 - When a major item of work, as defined elsewhere in the contract, is increased in excess of 125 percent or decreased below 75 percent of the original contract quantity. Any allowance for an increase in quantity shall apply only to that portion in excess of 125 percent of original contract item quantity, or in case of a decrease below 75 percent, to the actual amount of work performed.

7. BEGINNING OF WORK, TIME OF COMPLETION AND LIQUIDATED DAMAGES

The Contractor shall begin work within 15 calendar days after the contract has been approved by the attorney appointed and authorized to represent the City/County of Orange _____.

This work shall be diligently prosecuted to completion before the expiration of WORKING DAYS beginning on the fifteenth calendar day after approval of the contract.

(Insert amount of Liquidated Damages)

The Contractor shall pay to the City/County of Orange _____ the sum of \$ 2,050 _____ per day, for each and every calendar day's delay in finishing the work in excess of the number of working days prescribed above.

8. BUY AMERICA

Furnish steel and iron materials to be incorporated into the work with certificates of compliance. Steel and iron materials must be produced in the U.S. except:

1. Foreign pig iron and processed, pelletized, and reduced iron ore may be used in the domestic production of the steel and iron materials [60 Fed Reg 15478 (03/24/1995)];
2. If the total combined cost of the materials does not exceed the greater of 0.1 percent of the total bid or \$2,500, materials produced outside the U.S. may be used.

Production includes:

1. Processing steel and iron materials, including smelting or other processes that alter the physical form or shape (such as rolling, extruding, machining, bending, grinding, and drilling) or chemical composition;
2. Coating application, including epoxy coating, galvanizing, and painting, that protects or enhances the value of steel and iron materials.

9. QUALITY ASSURANCE

The Agency uses a Quality Assurance Program (QAP) to ensure a material is produced to comply with the Contract.

You may examine the records and reports of tests the Agency performs if they are available at the job site.

Schedule work to allow time for QAP.

10. PROMPT PAYMENT OF FUNDS WITHHELD TO SUBCONTRACTORS

(The local agency must include one of the following three provisions to ensure prompt and full payment of any retainage from the prime contractor, or subcontractor, to a subcontractor. Remove or strike out the methods not used.)

(EITHER)

~~No retainage will be withheld by the agency from progress payments due the prime contractor. Retainage by the prime contractor or subcontractors is prohibited and no retainage will be held by the prime contractor from progress due subcontractors. 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 California Business and Professions Code. This requirement 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 or deficient subcontract performance, or noncompliance by a subcontractor.~~

(OR)

~~No retainage will be held by the agency from progress payments due the prime contractor. Any retainage held by the prime contractors or subcontractors from progress payments due subcontractors shall be promptly paid in full to subcontractors within 30 days after the subcontractor's work is satisfactorily completed. Federal law (49CFR26.29) requires that any delay or postponement of payment over the 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.~~

(OR)

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.

11. FORM FHWA-1273 REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONTRACTS

(Excluding ATTACHMENT A - EMPLOYMENT AND MATERIALS PREFERENCE FOR APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS ROAD CONTRACTS)

[The following 10 pages must be physically inserted into the contract without modification.]

FHWA-1273 -- Revised May 1, 2012

REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS

- I. General
- II. Nondiscrimination
- III. Nonsegregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Compliance with Governmentwide Suspension and Debarment Requirements
- XI. Certification Regarding Use of Contract Funds for Lobbying

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor

performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

II. NONDISCRIMINATION

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. Equal Employment Opportunity: Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection

for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. EEO Officer: The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurance Required by 49 CFR 26.13(b):

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on [Form FHWA-1391](#). The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR

part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. (1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

- (i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
- (ii) The classification is utilized in the area by the construction industry; and
- (iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour

Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

2. Withholding

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under

approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b. (1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g. , the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency..

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department

of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

6. Subcontracts. The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

7. Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility.

a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

3. Withholding for unpaid wages and liquidated damages. The FHWA or the contacting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable

on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontractor and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

(1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;

(2) the prime contractor remains responsible for the quality of the work of the leased employees;

(3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and

(4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract

requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each

Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.
2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200.

1. Instructions for Certification – First Tier Participants:

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contractor). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website

(<https://www.epls.gov/>), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

* * * * *

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

* * * * *

County of Orange
R.J. Noble Company

Asphalt Overlay Resurfacing of Foothill Blvd and Hewes

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 (49 CFR 20).

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

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

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

**ATTACHMENT A- EMPLOYMENT AND MATERIALS
 PREFERENCE FOR APPALACHIAN DEVELOPMENT HIGHWAY
 SYSTEM OR APPALACHIAN LOCAL ACCESS ROAD
 CONTRACTS**

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

13. FEMALE AND MINORITY GOALS

To comply with Section II, "Nondiscrimination," of "Required Contract Provisions Federal-Aid Construction Contracts," the following are for female and minority utilization goals for Federal-aid construction contracts and subcontracts that exceed \$10,000:

The nationwide goal for female utilization is 6.9 percent.

The goals for minority utilization [45 Fed Reg 65984 (10/3/1980)] are as follows:

MINORITY UTILIZATION GOALS

Economic Area		Goal (Percent)
174	Redding CA: Non-SMSA (Standard Metropolitan Statistical Area) Counties: CA Lassen; CA Modoc; CA Plumas; CA Shasta; CA Siskiyou; CA Tehama	6.8
175	Eureka, CA Non-SMSA Counties: CA Del Norte; CA Humboldt; CA Trinity	6.6
176	San Francisco-Oakland-San Jose, CA: SMSA Counties: 7120 Salinas-Seaside-Monterey, CA CA Monterey	28.9
	7360 San Francisco-Oakland CA Alameda; CA Contra Costa; CA Marin; CA San Francisco; CA San Mateo	25.6
	7400 San Jose, CA CA Santa Clara, CA	19.6
	7485 Santa Cruz, CA CA Santa Cruz	14.9
	7500 Santa Rosa CA Sonoma	9.1
	8720 Vallejo-Fairfield-Napa, CA CA Napa; CA Solano	17.1
	Non-SMSA Counties: CA Lake; CA Mendocino; CA San Benito	23.2
177	Sacramento, CA: SMSA Counties: 6920 Sacramento, CA CA Placer; CA Sacramento; CA Yolo	16.1
	Non-SMSA Counties CA Butte; CA Colusa; CA El Dorado; CA Glenn; CA Nevada; CA Sierra; CA Sutter; CA Yuba	14.3
178	Stockton-Modesto, CA: SMSA Counties: 5170 Modesto, CA CA Stanislaus	12.3
	8120 Stockton, CA CA San Joaquin	24.3
	Non-SMSA Counties	19.8
	CA Alpine; CA Amador; CA Calaveras; CA Mariposa; CA Merced; CA Tuolumne	

179	Fresno-Bakersfield, CA		For the last full week July during which work is performed under the contract, you and each non material-supplier subcontractor with a subcontract of \$10,000 or more must complete Form FHWA PR-1391 (Appendix C to 23 CFR 230). Submit the forms by August 15.
	SMSA Counties: 0680 Bakersfield, CA	19.1	
	CA Kern 2840 Fresno, CA	26.1	
	CA Fresno	23.6	
	Non-SMSA Counties: CA Kings; CA Madera; CA Tulare		
180	Los Angeles, CA:		
	SMSA Counties: 0360 Anaheim-Santa Ana-Garden Grove, CA	11.9	
	CA Orange	28.3	
	4480 Los Angeles-Long Beach, CA	21.5	
	CA Los Angeles	19.0	
	6000 Oxnard-Simi Valley-Ventura, CA	19.7	
	CA Ventura	24.6	
6780 Riverside-San Bernardino-Ontario, CA			
CA Riverside; CA San Bernardino			
7480 Santa Barbara-Santa Maria-Lompoc, CA			
CA Santa Barbara			
Non-SMSA Counties			
CA Inyo; CA Mono; CA San Luis Obispo			
181	San Diego, CA:		
	SMSA Counties 7320 San Diego, CA	16.9	
	CA San Diego	18.2	
	Non-SMSA Counties		
	CA Imperial		

12. FEDERAL TRAINEE PROGRAM

For the Federal training program, the number of trainees or apprentices is 7.

This section applies if a number of trainees or apprentices is specified in the special provisions.

As part of your equal opportunity affirmative action program, provide on-the-job training to develop full journeymen in the types of trades or job classifications involved.

You have primary responsibility for meeting this training requirement.

If you subcontract a contract part, determine how many trainees or apprentices are to be trained by the subcontractor.

Include these training requirements in your subcontract.

Where feasible, 25 percent of apprentices or trainees in each occupation must be in their 1st year of apprenticeship or training.

Distribute the number of apprentices or trainees among the work classifications on the basis of your needs and the availability of journeymen in the various classifications within a reasonable recruitment area.

Before starting work, submit to the ~~City~~/County of Orange:

1. Number of apprentices or trainees to be trained for each classification
2. Training program to be used
3. Training starting date for each classification

Obtain the ~~City~~/County's of Orange approval for this submitted information before you start work. The ~~City~~/County of Orange credits you for each apprentice or trainee you employ on the work who is currently enrolled or becomes enrolled in an approved program.

The primary objective of this section is to train and upgrade minorities and women toward journeymen status. Make every effort to enroll minority and women apprentices or trainees, such as conducting systematic and direct recruitment through public and private sources likely to yield minority and women apprentices or trainees, to the extent they are available within a reasonable recruitment area. Show that you have made the efforts. In making these efforts, do not discriminate against any applicant for training.

Do not employ as an apprentice or trainee an employee:

1. In any classification in which the employee has successfully completed a training course leading to journeyman status or in which the employee has been employed as a journeyman
2. Who is not registered in a program approved by the US Department of Labor, Bureau of Apprenticeship and Training

Ask the employee if the employee has successfully completed a training course leading to journeyman status or has been employed as a journeyman. Your records must show the employee's answers to the questions.

In your training program, establish the minimum length and training type for each classification. The City/County of ___Orange___ and FHWA approves a program if one of the following is met:

1. It is calculated to:
 - Meet the your equal employment opportunity responsibilities
 - Qualify the average apprentice or trainee for journeyman status in the classification involved by the end of the training period
2. It is registered with the U.S. Department of Labor, Bureau of Apprenticeship and Training, and it is administered in a way consistent with the equal employment responsibilities of Federal-aid highway construction contracts

Obtain the State's approval for your training program before you start work involving the classification covered by the program.

Provide training in the construction crafts, not in clerk-typist or secretarial-type positions. Training is allowed in lower level management positions such as office engineers, estimators, and timekeepers if the training is oriented toward construction applications. Training is allowed in the laborer classification if significant and meaningful training is provided and approved by the division office. Off-site training is allowed if the training is an integral part of an approved training program and does not make up a significant part of the overall training.

The City/County of ___Orange___ reimburses you 80 cents per hour of training given an employee on this contract under an approved training program:

1. For on-site training
2. For off-site training if the apprentice or trainee is currently employed on a Federal-aid project and you do at least one of the following:
 - Contribute to the cost of the training
 - Provide the instruction to the apprentice or trainee
 - Pay the apprentice's or trainee's wages during the off-site training period
3. If you comply this section.

Each apprentice or trainee must:

1. Begin training on the project as soon as feasible after the start of work involving the apprentice's or trainee's skill
2. Remain on the project as long as training opportunities exist in the apprentice's or trainee's work classification or until the apprentice or trainee has completed the training program

Furnish the apprentice or trainee:

1. Copy of the program you will comply with in providing the training
2. Certification showing the type and length of training satisfactorily completed

13. TITLE VI ASSURANCES

During the performance of this Agreement, the contractor, for itself, its assignees and successors in interest (hereinafter collectively referred to as CONTRACTOR) agrees as follows:

- (1) Compliance with Regulations: CONTRACTOR shall comply with the regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the REGULATIONS), which are herein incorporated by reference and made a part of this agreement.

- (2) Nondiscrimination: CONTRACTOR, with regard to the work performed by it during the AGREEMENT, shall not discriminate on the grounds of race, color, sex, national origin, religion, age, or disability in the selection and retention of sub-applicants, including procurements of materials and leases of equipment. CONTRACTOR shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the agreement covers a program set forth in Appendix B of the Regulations.
- (3) Solicitations for Sub-agreements, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by CONTRACTOR for work to be performed under a Sub-agreement, including procurements of materials or leases of equipment, each potential sub-applicant or supplier shall be notified by CONTRACTOR of the CONTRACTOR'S obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
- (4) Information and Reports: CONTRACTOR shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the California Department of Transportation or FHWA to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of CONTRACTOR is in the exclusive possession of another who fails or refuses to furnish this information, CONTRACTOR shall so certify to the California Department of Transportation or the FHWA as appropriate, and shall set forth what efforts CONTRACTOR has made to obtain the information.
- (5) Sanctions for Noncompliance: In the event of CONTRACTOR's noncompliance with the nondiscrimination provisions of this agreement, the California Department of Transportation shall impose such agreement sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
- withholding of payments to CONTRACTOR under the Agreement within a reasonable period of time, not to exceed 90 days; and/or
 - cancellation, termination or suspension of the Agreement, in whole or in part.
- (6) Incorporation of Provisions: CONTRACTOR shall include the provisions of paragraphs (1) through (6) in every sub-agreement, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

CONTRACTOR shall take such action with respect to any sub-agreement or procurement as the California Department of Transportation or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance, provided, however, that, in the event CONTRACTOR becomes involved in, or is threatened with, litigation with a sub-applicant or supplier as a result of such direction, CONTRACTOR may request the California Department of Transportation enter into such litigation to protect the interests of the State, and, in addition, CONTRACTOR may request the United States to enter into such litigation to protect the interests of the United States.

15. USE OF UNITED STATES-FLAG VESSELS

The CONTRACTOR agrees-

- To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels.
- To Furnish within 20 days following the date of loading for shipments originating within the United State or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (1) of this section to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590.
- To insert the substance of the provisions of this clause in all subcontracts issued pursuant to this contract.

MAINTAIN RECORDS AND SUBMIT REPORTS DOCUMENTING YOUR PERFORMANCE UNDER THIS SECTION

General Decision Number: CA170035 83/10/2817 CA35

Superseded General Decision Number: CA28160835

State: California

Construction Types: Building, Heavy (Heavy and Dredging) and Highway

County: Orange County in California.

BUILDING CONSTRUCTION PROJECTS; DREDGING PROJECTS (does not include hopper dredge work); HEAVY CONSTRUCTION PROJECTS (does not include water well drilling); HIGHWAY CONSTRUCTION PROJECTS

Note: Under Executive Order (EO)13658, an hourly minimum wage of \$10.28 for calendar year 2817 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2815. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$18.28 (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2817. The EO minimum wage rate will be adjusted annually. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Modification Number	Publication Date
8	81/86/2817
1	81/28/2817
2	81/27/2817
3	82/17/2817
4	83/18/2817

ASBE8885-882 87/84/2816

Rates Fringes

Asbestos Workers/Insulator (Includes the application of all insulating materials, protective coverings, coatings, and finishes to all types of mechanical systems.)....\$	
38.37	
Fire Stop Technician (Application of Firestopping Materials for wall openings and penetrations in walls, floors, ceilings and curtain walls).....\$	28.13
26.15	
	17.31

ASBE0805-884 87/84/2016

Rates Fringes

Asbestos Removal worker/hazardous material

County of Orange
R.J. Noble Company

MA-080-17011696
Asphalt Overlay Resurfacing of Foothill Blvd and Hewes

<https://lwww.wdol.gov/wdol/scafiles/davisbacon/CA3S.dvb?v=4> 1/26

handler (Includes preparation, wetting, stripping, removal, scrapping, vacuuming, bagging and disposing of all insulation materials from mechanical systems, whether they contain asbestos or not).....\$ 18.38

18.82

* BRCA8884-818 85/81/2816

Rates Fringes

BRICKLAYER; MARBLE SETTER.....\$ 37.93 14.94

*The wage scale for prevailing wage projects performed in Blythe, China lake, Death Valley, Fort Irwin, Twenty-Nine Palms, Needles and 1-15 corridor (Barstow to the Nevada State Line)will be Three Dollars (\$3.88)above the standard San Bernardino/Riverside County hourly wage rate

BRCA8818-884 86/81/2816

Rates Fringes

MARBLE FINISHER.....\$ 29.28 12.93
TILE FINISHER.....\$ 24.53 11.88
TILE LAYER.....\$ 35.89 9.88

BRCA8818-818 89/81/2816

Rates Fringes

TERRAZZO FINISHER.....\$ 28.53 12.27
TERRAZZO WORKER/SETTER.....\$ 35.57 13.14

CARP8489-881 87/81/2816

Rates Fringes

CARPENTER (6) Scaffold Builder.....\$ 31.68 (7)
(1)Carpenter, Cabinet Table Power Saw
Installer, Insulation Operator.....\$ 48.93
Installer, Hardwood Floor Worker and
acoustical installer.....\$
39.83
(2)Millwright.....\$ 48.98
(3)Piledrivermen/Derrick
Bargeman, Bridge or Dock
Carpenter, Heavy Frammer, Rock Bargeman
or Scowman, Rockslinger, Shingler
(Commercial).....\$ 48.53
(4)Pneumatic Nailer,
Power Stapler.....\$ 48.89
(5) Sawfiler.....\$ 39.83

County of Orange
R.J. Noble Company

MA-080-17011696
Asphalt Overlay Resurfacing of Foothill Blvd and Hewes

	17.83
	17.83
17.83	17.83
17.83	17.83
	17.83

<https://lwww.wdol.gov/wdol/scafiles/davisbacon/CA35.dvb?v=4> 2/26

3/1312017 <https://www.wdol.gov/wdol/scafiles/davisbacon/CA35.dvb?v=4>

FOOTNOTE: Work of forming in the construction of open cut sewers or storm drains, on operations in which horizontal lagging is used in conjunction with steel H-Beams driven or placed in pre- drilled holes, for that portion of a lagged trench against which concrete is poured, namely, as a substitute for back forms (which work is performed by piledrivers): \$0.13 per hour additional.

CARP0409-005 07/01/2015

Rates Fringes

Drywall		
DRYWALL INSTALLER/LATHER....\$ 40.40		15.03
STOCKER/SCRAPPER.....\$ 10.00		7.17

CARP0409-008 08/01/2010

Rates Fringes

Modular Furniture Installer.....\$ 17.00	7.41
--	------

ELEC0011-002 12/28/2015

COMMUNICATIONS AND SYSTEMS WORK

Rates Fringes

Communications System		
Installer.....\$ 30.73		14.00
Technician.....\$ 30.10		12.48

SCOPE OF WORK:

Installation, testing, service and maintenance of systems utilizing the transmission and/or transference of voice, sound, vision and digital for commercial, educational, security and entertainment purposes for the following: TV monitoring and surveillance, background-foreground music, intercom and telephone interconnect, inventory control systems, microwave transmission, multi-media, multiplex, nurse call systems, radio page, school intercom and sound, burglar alarms, fire alarm (see last paragraph below) and low voltage master clock systems in commercial buildings. Communication Systems that transmit or receive information and/or control systems that are intrinsic to the above listed systems; inclusion or exclusion of terminations and testings of conductors determined by their function; excluding all other data systems or multiple systems which include control function or power supply; excluding installation of raceway systems, conduit systems, line voltage work, and energy management systems. Does not cover work performed at China Lake Naval Ordnance Test Station. Fire alarm work shall be performed at the current inside wireman total cost package.

* ELEC0441-001 02/27/2017

Rates Fringes

<https://www.wdol.gov/wdol/scafiles/davisbacon/CA35.dvb?v=4> 3126

3/1312017 <https://www.wdol.gov/wdol/scafiles/davisbacon/CA35.dvb?v=4>

CABLE SPLICER.....	\$ 44.20	18.83
ELECTRICIAN.....	\$ 42.26	18.77

* ELEC0441-003 12/26/2016

COMMUNICATIONS & SYSTEMS WORK (excludes any work on Intelligent Transportation Systems or CCTV highway systems)

Rates Fringes

Communications System

Installer.....	\$ 32.50	12.64
Technician.....	\$ 31.23	15.39

SCOPE OF WORK The work covered shall include the installation, testing, service and maintenance, of the following systems that utilize the transmission and/or transference of voice, sound 1 vision and digital for commercial1 education1 security and entertainment purposes for TV monitoring and surveillance) background foreground music1 intercom and telephone interconnect, inventory control systems1 microwave transmission1 multi-medial multiplex, nurse call system1 radio page, school intercom and sound1 burglar alarms and low voltage master clock systems.

A. Communication systems that transmit or receive information and/or control systems that are intrinsic to the above listed systems SCADA (Supervisory control/data acquisition PCM (Pulse code modulation)Inventory control systems Digital data systems Broadband & baseband and carriers Point of sale systems VSAT data systems Data communication systems RF and remote control systems Fiber optic data systems

B. Sound and Voice Transmission/Transference Systems Background-Foreground Music Intercom and Telephone Interconnect Systems Sound and Musical Entertainment Systems Nurse Call Systems Radio Page Systems School Intercom and Sound Systems Burglar Alarm Systems Low-Voltage Master Clock Systems Multi-Media/Multiplex Systems Telephone Systems RF Systems and Antennas and Wave Guide

C. *Fire Alarm Systems-(installation)wire pulling and testing.

D. Television and Video Systems Television Monitoring and Surveillance Systems Video Security Systems Video Entertainment Systems Video Educational Systems CATV and CCTV

E. Security Systems, Perimeter Security Systems1 Vibration Sensor Systems Sonar/Infrared Monitoring Equipment1 Access Control Systems1 Card Access Systems

*Fire Alarm Systems

1. Fire Alarms-In Raceways: Wire and cable pulling in raceways performed at the current electrician wage rate and

<https://www.wdol.gov/wdol/scafiles/davisbacon/CA35.dvb?v=4> 4/26

3/13/2017 <https://twww.wdol.govfdol/scafiles/davisbacon/CA35.dvb?v=4>

fringe benefits.

2. Fire Alarms-Open Wire Systems: installed by the Technician.

* ELECE441-ee4 e2/27/2e17

Rates Fringes

ELECTRICIAN (TRANSPORTATION SYSTEMS,
TRAFFIC SIGNALS & STREET LIGHTING)

Cable	Splicer/Fiber	Optic	
Splicer.....\$		44.2e	
Electrician.....\$	42.26		
Technician.....\$	31.76		18.83
			18.77
			16.75

SCOPE OF WORK: Electrical work on public streets, freeways, toll-ways, etc, above or below ground. All work necessary for the installation, renovation, repair or removal of Intelligent Transportation Systems, Video Surveillance Systems (CCTV), Street Lighting and and Traffic Signal work or systems whether underground or on bridges. Includes dusk to dawn lighting installations and ramps for access to or egress from freeways, toll-ways, etc.

Intelligent Transportation Systems shall include all systems and components to control, monitor, and communicate with pedestrian or vehicular traffic, included but not limited to: installation, modification, removal of all Fiber optic Video System, Fiber Optic Data Systems, Direct interconnect and Communications Systems, Microwave Data and Video Systems, Infrared and Sonic Detection Systems, Solar Power Systems, Highway Advisory Radio Systems, highway Weight and Motion Systems, etc.

Any and all work required to install and maintain any specialized or newly developed systems. All cutting, fitting and bandaging of ducts, raceways, and conduits. The cleaning, rodding and installation of "fish and pull wires". The excavation, setting, leveling and grouting of precast manholes, vaults, and pull boxes including ground rods or grounding systems, rock necessary for leveling and drainagae as well as pouring of a concrete envelope if needed.

JOURNEYMAN TRANSPORTATION ELECTRICIAN shall perform all tasks necessary toinstall the complete transportation system. JOURNEYMAN TECHNICIAN duties shall consist of: Distribution of material at job site, manual excavation and backfill, installation of system conduits and raceways for electrical, telephone, cable television and communication systems. Pulling, terminating and splicing of traffic signal and street lighting conductors and electrical systems including interconnect, dector loop, fiber optic cable and video/data.

ELEC1245-ee1 e6/e1/2e15

Rates Fringes

LINE CONSTRUCTION			
(1)Lineman; Cable splicer..\$	52.85		15.5
			3

<https://fwww.wdol.govfdol/scafiles/davisbacon/CA35.dvb?v=4>

5/2
6

County of Orange
R.J. Noble Company

Asphalt Overlay Resurfacing of Foothill Blvd and Hewes

(2)Equipment specialist (operates crawler tractors, commercial motor vehicles, backhoes, trenchers, cranes (se tons and below), overhead & underground distribution line equipment).....\$ 42.21
 (3)Groundman.....\$ 32.28
 (4)Powderman.....\$ 47.19 14.32
 14.e3
 14.69

HOLIDAYS: New Year's Day, M.L. King Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day and day after Thanksgiving, Christmas Day

ELEV9e18-ee1 91/91/2e17

Rates Fringes

ELEVATOR MECHANIC.....\$ 52.21 31.585

FOOTNOTE:

PAID VACATION: Employer contributes 8% of regular hourly rate as vacation pay credit for employees with more than 5 years of service, and 6% for 6 months to 5 years of service.
 PAID HOLIDAYS: New Years Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, Friday after Thanksgiving, and Christmas Day.

ENGI9012-993 97/e1/2e16

Rates Fringes

OPERATOR: Power Equipment	GROU	.go
(All Other Work)	P	vlw
GROUP 1.....\$ 39.95	24..	dd/
GROUP 2.....\$ 4e.73	....	sca
GROUP 3.....:.....\$ 41.e2	....	fil
GROUP 4.....\$ 42.51	....	es/
GROUP 5.....\$ 41.86	....	dav
GROUP 6.....\$ 41.83	..\$	isb
GROUP 8.....\$ 42.84	44.4	aco
GROUP 9.....\$ 42.19	6	n/C
GROUP 1e.....\$ 42.96	GROU	A35
GROUP 11.....\$ 42.31	P	.dv
GROUP 12.....\$ 43.13	25..	b?v
GROUP 13.....\$ 43.23	....	=4
GROUP 14.....\$ 43.26	....
GROUP 15.....\$ 43.34	....
GROUP 16.....\$ 43.46	....
GROUP 17.....\$ 43.63	..\$	
GROUP 18.....\$ 43.73	44.6	
GROUP 19.....\$ 43.84	3	
GROUP 29.....\$ 43.96	http	
GROUP 21.....\$ 44.13	s:Jt	
GROUP 22.....\$ 44.23	www.	
GROUP 23.....\$ 44.34	wdol	

County of Orange
R.J. Noble Company

MA-080-17011696
Asphalt Overlay Resurfacing of Foothill Blvd and Hewes

OPERATOR: Power Equipment (Cranes, Piledriving & Hoisting)

GROUP 1.....	\$ 43.2e	22.15
GROUP 2.....	\$ 43.98	22.15
GROUP 3.....	\$ 44.27	22.15
GROUP 4.....	\$ 44.41	22.15
GROUP 5.....	\$ 44.63	22.15
GROUP 6.....	\$ 44.74	22.15
GROUP 7.....	\$ 44.86	22.15
GROUP 8.....	\$ 45.03	22.15
GROUP 9.....	\$ 45.20	22.15
GROUP 1e.....	\$ 46.2e	22.15
GROUP 11.....	\$ 47.20	22.15
GROUP 12.....	\$ 48.20	22.15
GROUP 13.....	\$ 49.20	22.15

OPERATOR: Power Equipment
(Tunnel Work)

GROUP 1.....	\$ 41.80	23.35
GROUP 2.....	\$ 42.58	23.35
GROUP 3.....	\$ 42.87	23.35
GROUP 4.....	\$ 43.E11	23.35
GROUP 5.....	\$ 43.23	23.35
GROUP 6.....	\$ 43.34	23.35
GROUP 7.....	\$ 43.46	23.35

PREMIUM PAY:

\$3.75 per hour shall be paid on all Power Equipment Operator work on the following Military Bases: China Lake Naval Reserve, Vandenberg AFB, Point Arguello, Seely Naval Base, Fort Irwin, Nebo Annex Marine Base, Marine Corp Logistics Base Yermo, Edwards AFB, 29 Palms Marine Base and Camp Pendleton

Workers required to suit up and work in a hazardous material environment: \$2.00 per hour additional. Combination mixer and compressor operator on gunite work shall be classified as a concrete mobile mixer operator.

SEE ZONE DEFINITIONS AFTER CLASSIFICATIONS POWER EQUIPMENT OPERATORS CLASSIFICATIONS

GROUP 1: Bargeman; Brakeman; Compressor operator; Ditch Witch, with seat or similar type equipment; Elevator operator-inside; Engineer Oiler; Forklift operator (includes loed, lull or similar types under 5 tons; Generator operator; Generator, pump or compressor plant operator; Pump operator; Signalman; Switchman

GROUP 2: Asphalt-rubber plant operator (nurse tank operator); Concrete mixer operator-skip type; Conveyor operator; Fireman; Forklift operator (includes loed, lull or similar types over 5 tons; Hydrostatic pump operator; oiler crusher (asphalt or concrete plant); Petromat laydown machine; PJU side dum jack; Screening and conveyor machine operator (or similar types); Skiploader (wheel type up to 3/4 yd. without attachment); Tar pot fireman; Temporary heating plant operator; Trenching machine oiler

GROUP 3: Asphalt-rubber blend operator; Bobcat or similar
<https://www.wdol.gov/wdol/scafiles/davisbacon/CA3S.dvb?v=4> 7/26

County of Orange
R.J. Noble Company

MA-080-17011696
Asphalt Overlay Resurfacing of Foothill Blvd and Hewes

type (Skid steer); Equipment greaser (rack); Ford Ferguson (with dragtype attachments); Helicopter radioman (ground); Stationary pipe wrapping and cleaning machine operator

GROUP 4: Asphalt plant fireman; Backhoe operator (mini-max or similar type); Boring machine operator; Boxman or mixerman (asphalt or concrete); Chip spreading machine operator; Concrete cleaning decontamination machine operator; Concrete Pump Operator (small portable); Drilling machine operator, small auger types (Texoma super economatic or similar types - Hughes 100 or 2e0 or similar types - drilling depth of 3e' maximum); Equipment greaser (grease truck); Guard rail post driver operator; Highline cableway signalman; Hydra-hammer-aero stamper; Micro Tunneling (above ground tunnel); Power concrete curing machine operator; Power concrete saw operator; Power-driven jumbo form setter operator; Power sweeper operator; Rock Wheel Saw/Trencher; Roller operator (compacting); Screed operator (asphalt or concrete); Trenching machine operator (up to 6 ft.); Vacuum or much truck

GROUP 5: Equipment Greaser (Grease Truck/Multi Shift).

GROUP 6: Articulating material hauler; Asphalt plant engineer; Batch plant operator; Bit sharpener; Concrete joint machine operator (canal and similar type); Concrete planer operator; Dandy digger; Deck engine operator; Derrickman (oilfield type); Drilling machine operator, bucket or auger types (Calweld lee bucket or similar types - Watson leee auger or similar types - Texoma 330, see or 6ee auger or similar types - drilling depth of 45' maximum); Drilling machine operator; Hydrographic seeder machine operator (straw, pulp or seed), Jackson track maintainer, or similar type; Kalamazoo Switch tamper, or similar type; Machine tool operator; Maginnis internal full slab vibrator, Mechanical berm, curb or gutter (concrete or asphalt); Mechanical finisher operator (concrete, Clary-Johnson-Bidwell or similar); Micro tunnel system (below ground); Pavement breaker operator (truck mounted); Road oil mixing machine operator; Roller operator (asphalt or finish), rubber-tired earth moving equipment (single engine, up to and including 25 yds. struck); Self-propelled tar pipelining machine operator; Skiploader operator (crawler and wheel type, over 3/4 yd. and up to and including 1-1/2 yds.); Slip form pump operator (power driven hydraulic lifting device for concrete forms); Tractor operator-bulldozer, tamper-scraper (single engine, up to 1e0 h.p. flywheel and similar types, up to and including D-5 and similar types); Tugger hoist operator (1 drum); Ultra high pressure waterjet cutting tool system operator; Vacuum blasting machine operator

GROUP 8: Asphalt or concrete spreading operator (tamping or finishing); Asphalt paving machine operator (Barber Greene or similar type); Asphalt-rubber distribution operator; Backhoe operator (up to and including 3/4 yd.), small ford, Case or similar; Cast-in-place pipe laying machine operator; Combination mixer and compressor operator (gunite work); Compactor operator (self-propelled); Concrete mixer operator (paving); Crushing plant operator; Drill Doctor; Drilling machine operator, Bucket or auger types (Calweld

<https://www.wdo.lgov/wdol/scafiles/davisbacon/CA35.dvb?v=4> 8126

County of Orange
R.J. Noble Company

MA-080-17011696
Asphalt Overlay Resurfacing of Foothill Blvd and Hewes

1se bucket or similar types - Watson 1see, 2eee 2see auger or similar types - Texoma 7ee, see auger or similar types - drilling depth of 60' maximum); Elevating grader operator; Grade checker; Gradall operator; Grouting machine operator; Heavy-duty repairman; Heavy equipment robotics operator; Kalamazoo balliste regulator or similar type; Kolman belt loader and similar type; Le Tourneau blob compactor or similar type; Loader operator (Athey, Euclid, Sierra and similar types); Mobark Chipper or similar; Ozzie padder or similar types; P.C. slot saw; Pneumatic concrete placing machine operator (Hackley-Presswell or similar type); Pumpcrete gun operator; Rock Drill or similar types; Rotary drill operator (excluding caisson type); Rubber-tired earth-moving equipment operator (single engine, caterpillar, Euclid, Athey Wagon and similar types with any and all attachments over 2S yds. up to and including sa cu. yds. struck); Rubber-tired earth-moving equipment operator (multiple engine up to and including 2S yds. struck); Rubber-tired scraper operator (self-loading paddle wheel type-John Deere, 1040 and similar single unit); Self-propelled curb and gutter machine operator; Shuttle buggy; Skiploader operator (crawler and wheel type over 1-1/2 yds. up to and including 6-1/2 yds.); Soil remediation plant operator; Surface heaters and planer operator; Tractor compressor drill combination operator; Tractor operator (any type larger than D-S - lee flywheel h.p. and over, or similar-bulldozer, tamper, scraper and push tractor single engine); Tractor operator (boom attachments), Traveling pipe wrapping, cleaning and bending machine operator; Trenching machine operator (over 6 ft. depth capacity, manufacturer's rating); trenching Machine with Road Miner attachment (over 6ft depth capacity): Ultra high pressure waterjet cutting tool system mechanic; Water pull (compaction)operator

GROUP 9: Heavy Duty Repairman

GROUP 10: Drilling machine operator, Bucket or auger types (Calweld 2ee B bucket or similar types-Watson 3eee or seee auger or similar types-Texoma 9ee auger or similar types-drilling depth of 10S' maximum); Dual drum mixer, dynamic compactor LDC3Se (or similar types); Monorail locomotive operator (diesel, gas or electric); Motor patrol-blade operator (single engine); Multiple engine tractor operator (Euclid and similar type-except Quad 9 cat.); Rubber-tired earth-moving equipment operator (single engine, over sa yds. struck); Pneumatic pipe ramming tool and similar types; Prestressed wrapping machine operator; Rubber-tired earth-moving equipment operator (single engine, over sa yds. struck); Rubber tired earth moving equipment operator (multiple engine, Euclid, caterpillar and similar over 2S yds. and up to sa yds. struck), Tower crane repairman; Tractor loader operator (crawler and wheel type over 6-1/2 yds.); Woods mixer operator (and similar Pugmill equipment)

GROUP 11: Heavy Duty Repairman - Welder Combination, Welder - Certified.

GROUP 12: Auto grader operator; Automatic slip form operator; Drilling machine operator, bucket or auger types (Calweld,

<https://www.wdol.gov/Wdol/scafiles/davisbacon/CA35.dvb?v=4> 9/26

3/13/2017 <https://www.wdol.gov/INdol/scafiles/davisbacon/CA35.dvb?v=4>

auger 200 CA or similar types - Watson, auger 6000 or similar types - Hughes Super Duty, auger 200 or similar types - drilling depth of 175' maximum); Hoe ram or similar with compressor; Mass excavator operator less than 750 cu. yards; Mechanical finishing machine operator; Mobile form traveler operator; Motor patrol operator (multi-engine); Pipe mobile machine operator; Rubber-tired earth-moving equipment operator (multiple engine, Euclid, Caterpillar and similar type, over 50 cu. yds. struck); Rubber-tired self-loading scraper operator (paddle-wheel-auger type self-loading - two (2) or more units)

GROUP 13: Rubber-tired earth-moving equipment operator operating equipment with push-pull system (single engine, up to and including 25 yds. struck)

GROUP 14: Canal liner operator; Canal trimmer operator; Remote-control earth-moving equipment operator (operating a second piece of equipment: \$1.00 per hour additional); Wheel excavator operator (over 750 cu. yds.)

GROUP 15: Rubber-tired earth-moving equipment operator, operating equipment with push-pull system (single engine, Caterpillar, Euclid, Athey Wagon and similar types with any and all attachments over 25 yds. and up to and including 50 yds. struck); Rubber-tired earth-moving equipment operator, operating equipment with push-pull system (multiple engine-up to and including 25 yds. struck)

GROUP 16: Rubber-tired earth-moving equipment operator, operating equipment with push-pull system (single engine, over 50 yds. struck); Rubber-tired earth-moving equipment operator, operating equipment with push-pull system (multiple engine, Euclid, Caterpillar and similar, over 25 yds. and up to 50 yds. struck)

GROUP 17: Rubber-tired earth-moving equipment operator, operating equipment with push-pull system (multiple engine, Euclid, Caterpillar and similar, over 50 cu. yds. struck); Tandem tractor operator (operating crawler type tractors in tandem - Quad 9 and similar type)

GROUP 18: Rubber-tired earth-moving equipment operator, operating in tandem (scrapers, belly dumps and similar types in any combination, excluding compaction units - single engine, up to and including 25 yds. struck)

GROUP 19: Rotex concrete belt operator (or similar types); Rubber-tired earth-moving equipment operator, operating in tandem (scrapers, belly dumps and similar types in any combination, excluding compaction units - single engine, Caterpillar, Euclid, Athey Wagon and similar types with any and all attachments over 25 yds. and up to and including 50 cu. yds. struck); Rubber-tired earth-moving equipment operator, operating in tandem (scrapers, belly dumps and similar types in any combination, excluding compaction units - multiple engine, up to and including 25 yds. struck)

GROUP 20: Rubber-tired earth-moving equipment operator, operating in tandem (scrapers, belly dumps and similar types in any combination, excluding compaction units -

<https://1Nww.wdol.gov/wdol/scafiles/davisbacon/CA35.dvb?v=4> 10/26

3/13/2017 <https://lwww.wdol.govlwdol/scafiles/davisbacon/CA35.dvb?v=4>

single engine, over 5e yds. struck); Rubber-tired earth-moving equipment operator, operating in tandem (scrapers, belly dumps, and similar types in any combination, excluding compaction units - multiple engine, Euclid, Caterpillar and similar, over 25 yds. and up to 50 yds. struck)

GROUP 21: Rubber-tired earth-moving equipment operator, operating in tandem (scrapers, belly dumps and similar types in any combination, excluding compaction units - multiple engine, Euclid, Caterpillar and similar type, over 50 cu. yds. struck)

GROUP 22: Rubber-tired earth-moving equipment operator, operating equipment with the tandem push-pull system (single engine, up to and including 25 yds. struck)

GROUP 23: Rubber-tired earth-moving equipment operator, operating equipment with the tandem push-pull system (single engine, Caterpillar, Euclid, Athey Wagon and similar types with any and all attachments over 25 yds. and up to and including 50 yds. struck); Rubber-tired earth-moving equipment operator, operating with the tandem push-pull system (multiple engine, up to and including 25 yds. struck)

GROUP 24: Rubber-tired earth-moving equipment operator, operating equipment with the tandem push-pull system (single engine, over 50 yds. struck); Rubber-tired earth-moving equipment operator, operating equipment with the tandem push-pull system (multiple engine, Euclid, Caterpillar and similar, over 25 yds. and up to 50 yds. struck)

GROUP 25: Concrete pump operator-truck mounted; Rubber-tired earth-moving equipment operator, operating equipment with the tandem push-pull system (multiple engine, Euclid, Caterpillar and similar type, over se cu. yds. struck)

CRANES, PILEDIVING AND HOISTING EQUIPMENT CLASSIFICATIONS GROUP 1: Engineer oiler; Fork lift operator (includes loed, lull or similar types)

GROUP 2: Truck crane oiler

GROUP 3: A-frame or winch truck operator; Ross carrier operator (jobsite)

GROUP 4: Bridge-type unloader and turntable operator; Helicopter hoist operator

GROUP 5: Hydraulic boom truck; Stinger crane (Austin-Western or similar type); Tugger hoist operator (1 drum)

GROUP 6: Bridge crane operator; Cretor crane operator; Hoist operator (Chicago boom and similar type); Lift mobile operator; Lift slab machine operator (Vagtborg and similar types); Material hoist and/or manlift operator; Polar gantry crane operator; Self Climbing scaffold (or similar type); Shovel, backhoe, dragline, clamshell operator (over

<https://lwww.wdol.govlwdol/scafiles/davisbacon/CA35.dvb?v=4> 11/26

3/13/2017 <https://twww.wdol.gov/wdol/scafiles/davisbacon/CA35.dvb?v=4>

3/4 yd. and up to 5 cu. yds. mrc); Tugger hoist operator

GROUP 7: Pedestal crane operator; Shovel, backhoe, dragline, clamshell operator (over 5 cu. yds. mrc); Tower crane repair; Tugger hoist operator (3 drum)

GROUP 8: Crane operator (up to and including 25 ton capacity); Crawler transporter operator; Derrick barge operator (up to and including 25 ton capacity); Hoist operator, stiff legs, Guy derrick or similar type (up to and including 25 ton capacity); Shovel, backhoe, dragline, clamshell operator (over 7 cu. yds., M.R.C.)

GROUP 9: Crane operator (over 25 tons and up to and including 5e tons mrc); Derrick barge operator (over 25 tons up to and including 5e tons mrc); Highline cableway operator; Hoist operator, stiff legs, Guy derrick or similar type (over 25 tons up to and including 5e tons mrc); K-crane operator; Polar crane operator; Self erecting tower crane operator maximum lifting capacity ten tons

GROUP 1e: Crane operator (over 5e tons and up to and including 1ee tons mrc); Derrick barge operator (over 5e tons up to and including 1ee tons mrc); Hoist operator, stiff legs, Guy derrick or similar type (over 5e tons up to and including 1ee tons mrc), Mobile tower crane operator (over 5e tons, up to and including 1ee tons M.R.C.); Tower crane operator and tower gantry

GROUP 11: Crane operator (over 1ee tons and up to and including 2ee tons mrc); Derrick barge operator (over 1ee tons up to and including 2ee tons mrc); Hoist operator, stiff legs, Guy derrick or similar type (over 1ee tons up to and including 2ee tons mrc); Mobile tower crane operator (over 1ee tons up to and including 2ee tons mrc)

GROUP 12: Crane operator (over 2ee tons up to and including 3ee tons mrc); Derrick barge operator (over 2ee tons up to and including 3ee tons mrc); Hoist operator, stiff legs, Guy derrick or similar type (over 2ee tons, up to and including 3ee tons mrc); Mobile tower crane operator (over 2ee tons, up to and including 3ee tons mrc)

GROUP 13: Crane operator (over 3ee tons); Derrick barge operator (over 3ee tons); Helicopter pilot; Hoist operator, stiff legs, Guy derrick or similar type (over 3ee tons); Mobile tower crane operator (over 3ee tons)

TUNNEL CLASSIFICATIONS

GROUP 1: Skiploader (wheel type up to 3/4 yd. without attachment)

GROUP 2: Power-driven jumbo form setter operator

GROUP 3: Dinkey locomotive or motorperson (up to and including 1e tons)

GROUP 4: Bit sharpener; Equipment greaser (grease truck); Slip form pump operator (power-driven hydraulic lifting device for concrete forms); Tugger hoist operator (1 drum); <https://lwww.wdol.gov/wdol/scafiles/davisbacon!CA35.dvb?v=4> 12/26

3/13/2017 <https://www.wdol.gov/wdol/scafiles/davisbacon/CA35.dvb?v=4>

Tunnel locomotive operator (over 18 and up to and including 38 tons)

GROUP 5: Backhoe operator (up to and including 3/4 yd.); Small Ford, Case or similar; Drill doctor; Grouting machine operator; Heading shield operator; Heavy-duty repairperson; Loader operator (Athey, Euclid, Sierra and similar types); Mucking machine operator (1/4 yd., rubber-tired, rail or track type); Pneumatic concrete placing machine operator (Hackley-Presswell or similar type); Pneumatic heading shield (tunnel); Pumpcrete gun operator; Tractor compressor drill combination operator; Tugger hoist operator (2 drum); Tunnel locomotive operator (over 38 tons)

GROUP 6: Heavy Duty Repairman

GROUP 7: Tunnel mole boring machine operator

ENGINEERS ZONES

\$1.88 additional per hour for all of IMPERIAL County and the portions of KERN, RIVERSIDE & SAN BERNARDINO Counties as defined below:

That area within the following Boundary: Begin in San Bernardino County, approximately 3 miles NE of the intersection of I-15 and the California State line at that point which is the NW corner of Section 1, T17N,m R14E, San Bernardino Meridian. Continue W in a straight line to that point which is the SW corner of the northwest quarter of Section 6, T27S, R42E, Mt. Diablo Meridian. Continue North to the intersection with the Inyo County Boundary at that point which is the NE corner of the western half of the northern quarter of Section 6, T25S, R42E, MDM. Continue W along the Inyo and San Bernardino County boundary until the intersection with Kern County, as that point which is the SE corner of Section 34, T24S, R48E, MDM. Continue W along the Inyo and Kern County boundary until the intersection with Tulare County, at that point which is the SW corner of the SE quarter of Section 32, T24S, R37E, MDM. Continue W along the Kern and Tulare County boundary, until that point which is the NW corner of T25S, R32E, MDM. Continue S following R32E lines to the NW corner of T31S, R32E, MDM. Continue W to the NW corner of T31S, R31E, MDM. Continue S to the SW corner of T32S, R31E, MDM. Continue W to SW corner of SE quarter of Section 34, T32S, R38E, MDM. Continue S to SW corner of T11N, R17W, SBM. Continue E along south boundary of T11N, SBM to SW corner of T11N, R7W, SBM. Continue S to SW corner of T9N, R7W, SBM. Continue E along south boundary of T9N, SBM to SW corner of R1E, SMB to Riverside County line at the SW corner of T1S, R1E, SBM. Continue E along south boundary of T1s, SBM (Riverside County Line) to SW corner of T1S, R18E, SBM. Continue S along west boundary of R18E, SBM to Imperial County line at the SW corner of TBS, R18E, SBM. Continue W along Imperial and Riverside county line to NW corner of T9S, R9E, SBM. Continue S along the boundary between Imperial and San Diego Counties, along the west edge of R9E, SBM to the south boundary of Imperial County/California state line. Follow the California state line west to Arizona state line, then north to Nevada state line, then continuing NW back to start at the point which is the NW corner of Section 1, <https://www.wdol.gov/wdol/scafiles/davisbacon/CA35.dvb?v=4> 13/26

3/1312017

<https://www.wdol.gov/wdol/scafiles/davisbacon/CA35.dvb?v=4>

T17N, R14E, SBM

\$1.00 additional per hour for portions of SAN LUIS OBISPO, KERN, SANTA BARBARA & VENTURA as defined below:

That area within the following Boundary: Begin approximately 5 miles north of the community of Cholame, on the Monterey County and San Luis Obispo County boundary at the NW corner of T25S, R16E, Mt. Diablo Meridian. Continue south along the west side of R16E to the SW corner of T30S, R16E, MOM. Continue E to SW corner of T30S, R17E, MOM. Continue S to SW corner of T31S, R17E, MOM. Continue E to SW corner of T31S, R18E, MOM. Continue S along West side of R18E, MOM as it crosses into San Bernardino Meridian numbering area and becomes R30W. Follow the west side of R30W, SBM to the SW corner of T9N, R30W, SBM. Continue E along the south edge of T9N, SBM to the Santa Barbara County and Ventura County boundary at that point which is the SW corner of Section 34. T9N, R24W, SBM, continues along the Ventura County line to that point which is the SW corner of the SE quarter of Section 32, T7N, R24W, SBM. Continue E along the south edge of T7N, SBM to the SE corner to T7N, R21W, SBM. Continue N along East side of R21W, SBM to Ventura County and Kern County boundary at the NE corner of T8N, R21W. Continue W along the Ventura County and Kern County boundary to the SE corner of T9N, R21W. Continue North along the East edge of R21W, SBM to the NE corner of T12N, R21W, SBM. Continue West along the north edge of T12N, SBM to the SE corner of T32S, R21E, MOM. [T12N SBM is a think strip between T11N SBM and T32S MOM]. Continue North along the East side of R21E, MOM to the Kings County and Kern County border at the NE corner of T25S, R21E, MOM, continue West along the Kings County and Kern County Boundary until the intersection of San Luis Obispo County. Continue west along the Kings County and San Luis Obispo County boundary until the intersection with Monterey County. Continue West along the Monterey County and San Luis Obispo County boundary to the beginning point at the NW corner of T2SS, R16E, MOM.

\$2.00 additional per hour for INYO and MONO Counties and the Northern portion of SAN BERNARDINO County as defined below:

That area within the following Boundary: Begin at the intersection of the northern boundary of Mono County and the California state line at the point which is the center of Section 17, T1eN, R22E, Mt. Diablo Meridian. Continue s then SE along the entire western boundary of Mono County, until it reaches Inyo County at the point which is the NE corner of the Western half of the NW quarter of Section 2, T8S, R29E, MOM.

Continue SSE along the entire western boundary of Inyo County, until the intersection with Kern County at the point which is the SW corner of the SE 1/4 of Section 32, T24S, R37E, MOM. Continue E along the Inyo and Kern County boundary until the intersection with San Bernardino County at that point which is the SE corner of section 34, T24S, R40E, MOM. Continue E along the Inyo and San Bernardino County boundary until the point which is the NE corner of the Western half of the NW quarter of Section 6, T2SS, R42E, MOM. Continue S to that point which is the SW corner of the NW quarter of Section 6, T27S, R42E, MOM. Continue E in a straight line to the California and Nevada state border at the point which is the NW corner of Section 1, <https://lwww.wdol.gov/wdol/scafiles/davisbacon/CA35.dvb?v=4> 14126

3/13/2017 <https://www.wdol.gov/wdol/scafiles/davisbacon/CA35.dvb?v=4>

T17N, R14E, San Bernardino Meridian. Then continue NW along the state line to the starting point, which is the center of Section 18, T10N, R22E, MDM.

REMAINING AREA NOT DEFINED ABOVE RECIEVES BASE RATE

ENGI0812-884 88/81/2815

Rates Fringes

OPERATOR: Power Equipment

(DREDGING)

(1) Leverman.....	\$ 49.50	
(2) Dredge dozer.....	\$ 43.53	23.68
(3) Deckmate.....	\$ 43.42	23.68
(4) Winch operator (stern		23.60
winch on dredge.).....	\$ 42.87	
(5) Fireman-Oiler, Deckhand, Bargeman,		23.68
Leveehand.....	\$ 42.33	
(6) Barge Mate.....	\$ 42.94	
		23.68
		23.60

IRON8377-802 87/81/2016

Rates Fringes

Ironworkers:

Fence Erector.....	\$ 28.33	28.64
Ornamental, Reinforcing		
and Structural.....	\$ 34.75	29.28

PREMIUM PAY:

\$6.88 additional per hour at the following locations: China Lake Naval Test Station, Chocolate Mountains Naval Reserve-Niland,

Edwards AFB, Fort Irwin Military Station, Fort Irwin Training Center-Goldstone, San Clemente Island, San Nicholas Island, Susanville Federal Prison, 29 Palms - Marine Corps, U.S. Marine Base - Barstow, U.S. Naval Air Facility - Sealey, Vandenberg AFB

\$4.88 additional per hour at the following locations:

Army Defense Language Institute - Monterey, Fallon Air Base, Naval Post Graduate School - Monterey, Yermo Marine Corps Logistics Center

\$2.00 additional per hour at the following locations:

Port Hueneme, Port Mugu, U.S. Coast Guard Station - Two Rock

LAB08308-805 01/01/2817

Rates Fringes

County of Orange
R.J. Noble Company

MA-080-17011696
Asphalt Overlay Resurfacing of Foothill Blvd and Hewes

Asbestos Removal Laborer.....	.\$	16.8	
31.88		2	
https://www.wdol.gov/wdol/scafiles/davisbacon/CA35.dvb?v=4			151
			26

3/13/2017 <https://www.wdol.gov/wdol/scafiles/davisbacon/CA35.dvb?v=4>

SCOPE OF WORK: Includes site mobilization, initial site cleanup, site preparation, removal of asbestos-containing material and toxic waste, encapsulation, enclosure and disposal of asbestos-containing materials and toxic waste by hand or with equipment or machinery; scaffolding, fabrication of temporary wooden barriers and assembly of decontamination stations.

LAB00345-001 07/03/2016

Rates Fringes

LABORER (GUNITE)

GROUP 1.....	\$ 37.89	20.50
GROUP 2.....	\$ 36.94	20.50
GROUP 3.....	\$ 33.40	20.50

FOOTNOTE: GUNITE PREMIUM PAY: Workers working from a Bosn'n's Chair or suspended from a rope or cable shall receive 40 cents per hour above the foregoing applicable classification rates. Workers doing gunite and/or shotcrete work in a tunnel shall receive 35 cents per hour above the foregoing applicable classification rates, paid on a portal-to-portal basis. Any work performed on, in or above any smoke stack, silo, storage elevator or similar type of structure, when such structure is in excess of 75'-0" above base level and which work must be performed in whole or in part more than 75'-0" above base level, that work performed above the 75'-0" level shall be compensated for at 35 cents per hour above the applicable classification wage rate.

GUNITE LABORER CLASSIFICATIONS GROUP 1: Rodmen, Nozzlemen GROUP 2: Gunmen
GROUP 3: Reboundmen

LAB00652-001 07/04/2016

Rates Fringes

LABORER (TUNNEL)

GROUP 1. ....	.. .. \$	19.07
38.09		19.07
GROUP 2.....	\$ 38.41	19.07
GROUP 3.....	\$ 38.87	19.07
GROUP 4.....	\$ 39.56	
LABORER		19.07
GROUP 1.....	\$ 32.34	19.07
GROUP 2.....	\$ 32.89	19.07
GROUP 3.....	\$ 33.44	19.07
GROUP 4.....	\$ 34.99	19.07
GROUP 5.....	\$ 35.34	

LABORER CLASSIFICATIONS

<https://www.wdol.gov/wdol/scafiles/davisbacon/CA35.dvb?v=4> 16/26

3/13/2017 <https://www.wdol.gov/wdollscfiles/davisbacon/CA35.dvb?v=4>

GROUP 1: Cleaning and handling of panel forms; Concrete screeding for rough strike-off; Concrete, water curing; Demolition laborer, the cleaning of brick if performed by a worker performing any other phase of demolition work, and the cleaning of lumber; Fire watcher, limber, brush loader, piler and debris handler; Flag person; Gas, oil and/or water pipeline laborer; Laborer, asphalt-rubber material loader; Laborer, general or construction; Laborer, general clean-up; Laborer, landscaping; Laborer, jetting; Laborer, temporary water and air lines; Material hose operator (walls, slabs, floors and decks); Plugging, filling of shee bolt holes; Dry packing of concrete; Railroad maintenance, repair track person and road beds; Streetcar and railroad construction track laborers; Rigging and signaling; Scaler; Slip form raiser; Tar and mortar; Tool crib or tool house laborer; Traffic control by any method; Window cleaner; Wire mesh pulling - all concrete pouring operations

GROUP 2: Asphalt shoveler; Cement dumper (on 1 yd. or larger mixer and handling bulk cement); Cesspool digger and installer; Chucktender; Chute handler, pouring concrete, the handling of the chute from readymix trucks, such as walls, slabs, decks, floors, foundation, footings, curbs, gutters and sidewalks; Concrete curer, impervious membrane and form oiler; Cutting torch operator (demolition); Fine grader, highways and street paving, airport, runways and similar type heavy construction; Gas, oil and/or water pipeline wrapper - pot tender and form person; Guinea chaser; Headerboard person - asphalt; Laborer, packing rod steel and pans; Membrane vapor barrier installer; Power broom sweeper (small); Riprap stonepaver, placing stone or wet sacked concrete; Roto scraper and tiller; Sandblaster (pot tender); Septic tank digger and installer(lead); Tank scaler and cleaner; Tree climber, faller, chain saw operator, Pittsburgh chipper and similar type brush shredder; Underground laborer, including caisson bellower

GROUP 3: Buggymobile person; Concrete cutting torch; Concrete pile cutter; Driller, jackhammer, 2-1/2 ft. drill steel or longer; Dri-pak-it machine; Gas, oil and/or water pipeline wrapper, 6-in. pipe and over, by any method, inside and out; High scaler (including drilling of same); Hydro seeder and similar type; Impact wrench multi-plate; Kettle person, pot person and workers applying asphalt, lay-kold, creosote, lime caustic and similar type materials ("applying" means applying, dipping, brushing or handling of such materials for pipe wrapping and waterproofing); Operator of pneumatic, gas, electric tools, vibrating machine, pavement breaker, air blasting, come-alongs, and similar mechanical tools not separately classified herein; Pipelayer's backup person, coating, grouting, making of joints, sealing, caulking, diapering and including rubber gasket joints, pointing and any and all other services; Rock slinger; Rotary scarifier or multiple head concrete chipping scarifier; Steel headerboard and guideline setter; Tamper, Barko, Wacker and similar type; Trenching machine, hand-propelled

GROUP 4: Asphalt raker, lute person, ironer, asphalt dump person, and asphalt spreader boxes (all types); Concrete core cutter (walls, floors or ceilings), grinder or sander;

<https://www.wdol.gov/wdd/scafiles/davisbacon/CA35.dvb?v=4> 17/26

3/13/2017 <https://www.wdol.gov/wdol/scafiles/davisbacon/CA35.dvb?v=4>

Concrete saw person, cutting walls or flat work, scoring old or new concrete; Cribber, shorer, lagging, sheeting and trench bracing, hand-guided lagging hammer; Head rock slinger; Laborer, asphalt- rubber distributor boot person; Laser beam in connection with laborers' work; Oversize concrete vibrator operator, 70 lbs. and over; Pipelayer performing all services in the laying and installation of pipe from the point of receiving pipe in the ditch until completion of operation, including any and all forms of tubular material, whether pipe, metallic or non-metallic, conduit and any other stationary type of tubular device

used for the conveying of any substance or element, whether water, sewage, solid gas, air, or other product whatsoever and without regard to the nature of material from which the tubular material is fabricated; No-joint pipe and stripping of same; Prefabricated manhole installer; Sandblaster (nozzle person), water blasting, Porta Shot-Blast

GROUP 5: Blaster powder, all work of loading holes, placing and blasting of all powder and explosives of whatever type, regardless of method used for such loading and placing; Driller: All power drills, excluding jackhammer, whether core, diamond, wagon, track, multiple unit, and any and all other types of mechanical drills without regard to the form of motive power; Toxic waste removal

TUNNEL LABORER CLASSIFICATIONS

GROUP 1: Batch plant laborer; Changehouse person; Dump person; Dump person (outside); Swamper (brake person and switch person on tunnel work); Tunnel materials handling person; Nipper; Pot tender, using mastic or other materials (for example, but not by way of limitation, shotcrete, etc.)

GROUP 2: Chucktender, cabletender; Loading and unloading agitator cars; Vibrator person, jack hammer, pneumatic tools (except driller); Bull gang mucker, track person; Concrete crew, including rodder and spreader

GROUP 3: Blaster, driller, powder person; Chemical grout jet person; Cherry picker person; Grout gun person; Grout mixer person; Grout pump person; Jackleg miner; Jumbo person; Kemper and other pneumatic concrete placer operator; Miner, tunnel (hand or machine); Nozzle person; Operating of troweling and/or grouting machines; Powder person (primer house); Primer person; Sandblaster; Shotcrete person; Steel form raiser and setter; Timber person, retimber person, wood or steel; Tunnel Concrete finisher

GROUP 4: Diamond driller; Sandblaster; Shaft and raise work

LAB00652-003 07/01/2016

Rates Fringes

Brick Tender.....\$ 30.52 18.56

LAB01184-001 07/04/2016

Rates Fringes

<https://www.wdol.gov/wdol/scafiles/davisbacon/CA35.dvb?v=4> 18126

3/13/2017 <https://www.wdol.gov/wdol/scafiles/davisbacon/CA35.dvb?v=4>

Laborers: (HORIZONTAL DIRECTIONAL DRILLING)

(1)Drilling Crew Laborer...\$ 33.65	13.95	(2)Vehicle Operator/Hauler.\$ 33.82
13.95 (3) Horizontal Directional		
Drill Operator.....\$ 35.67	13.95	(4)Electronic Tracking
locator.....\$ 37.67	13.95	

Laborers: (STRIPING/SLURRY SEAL)

GROUP 1.....\$ 34.86	17.83
GROUP 2.....\$ 36.16	17.83
GROUP 3.....\$ 38.17	17.83
GROUP 4.....\$ 39.91	17.83

LABORERS - STRIPING CLASSIFICATIONS

GROUP 1: Protective coating, pavement sealing, including repair and filling of cracks by any method on any surface in parking lots, game courts and playgrounds; carstops; operation of all related machinery and equipment; equipment repair technician

GROUP 2: Traffic surface abrasive blaster; pot tender - removal of all traffic lines and markings by any method (sandblasting, waterblasting, grinding, etc.)and preparation of surface for coatings. Traffic control person: controlling and directing traffic through both conventional and moving lane closures; operation of all related machinery and equipment

GROUP 3: Traffic delineating device applicator: Layout and application of pavement markers, delineating signs, rumble and traffic bars, adhesives, guide markers, other traffic delineating devices including traffic control. This category includes all traffic related surface preparation (sandblasting, waterblasting, grinding)as part of the application process. Traffic protective delineating system installer: removes, relocates, installs, permanently affixed roadside and parking delineation barricades, fencing, cable anchor, guard rail, reference signs, monument markers; operation of all related machinery and equipment; power broom sweeper

GROUP 4: Striper: layout and application of traffic stripes and markings; hot thermo plastic; tape traffic stripes and markings, including traffic control; operation of all related machinery and equipment

LAB01414-881 88/83/2816

Rates Fringes

LABORER

PLASTER CLEAN-UP LABORER....\$ 31.68	19.28
PLASTER TENDER.....\$ 34.15	19.28

Work on a swing stage scaffold: \$1.88 per hour additional.

<https://www.wdol.gov/wdol/scafiles/davisbacon/CA35.dvb?v=4> 19/26

3/1312017
* PAIN0036-001 08/01/2016

<https://lwww.wdol.gov/lwdol/scafiles/davisbacon/CA35.dvb?v=4>

Rates Fringes

Painters: (Including Lead Abatement)

(1)Repaint (excludes San Diego County.).....\$ 27.59	
(2)All Other Work.....\$ 31.12	13.24
	13.24

REPAINT of any previously painted structure. Exceptions: work involving the aerospace industry, breweries, commercial recreational facilities, hotels which operate commercial establishments as part of hotel service, and sports facilities.

PAIN0036-008 10/01/2016

Rates Fringes

DRYWALL FINISHER/TAPER.....\$ 37.18	17.99
-------------------------------------	-------

PAIN0036-015 06/01/2016

Rates Fringes

GLAZIER.....\$ 41.70	21.13
----------------------	-------

FOOTNOTE: Additional \$1.25 per hour for work in a condor, from the third (3rd) floor and up
Additional \$1.25 per hour for work on the outside of the building from a swing stage or any suspended contrivance, from the ground up

PAIN1247-002 05/01/2016

Rates Fringes

SOFT FLOOR LAYER.....\$ 31.10	14.06
-------------------------------	-------

PLAS0200-009 08/05/2015

Rates Fringes

PLASTERER.....\$ 38.44	13.77
------------------------	-------

PLASe500-002 07/01/2016

Rates Fringes

CEMENT MASON/CONCRETE FINISHER...\$ 33.30	23.33
---	-------

PLUM0016-001 07/01/2016

Rates Fringes

PLUMBER/PIPEFITTER
Plumber and Pipefitter
All other work except

County of Orange
R.J. Noble Company

MA-080-17011696
Asphalt Overlay Resurfacing of Foothill Blvd and Hewes

work on new additions and

<https://www.wdol.gov/wdol/scafiles/davisbacon/CA35.dvb?v=4> 20/26

3/13/2017 <https://www.wdol.gov/wdol/scafiles/davisbacon/CA35.dvb?v=4>

remodeling of bars, restaurant, stores and commercial buildings not to exceed 5,888 sq. ft. of floor space and work on strip malls, light commercial, tenant improvement and remodel work.....	\$ 47.19	21.41
Work ONLY on new additions and remodeling of bars, restaurant, stores and commercial buildings not to exceed 5,888 sq. ft. of floor space.....	\$ 45.73	
Work ONLY on strip malls, light commercial, tenant improvement and remodel work.....	\$ 35.69	20.43
		18.76

PLUM8345-881 87/81/2814

Rates Fringes

PLUMBER		
Landscape/Irrigation Fitter.....	\$ 29.27	19.75
Sewer & Storm Drain Work.....	\$ 33.24	17.13

ROOF8836-882 08/01/2815

Rates Fringes

ROOFER.....\$ 35.07 14.48

FOOTNOTE: Pitch premium: Work on which employees are exposed to pitch fumes or required to handle pitch, pitch base or pitch impregnated products, or any material containing coal tar pitch, the entire roofing crew shall receive \$1.75 per hour "pitch premium" pay.

SFCA8669-888 04/81/2816

DOES NOT INCLUDE SAN CLEMENTE ISLAND, THE CITY OF SANTA ANA, AND THAT PART OF ORANGE COUNTY WITHIN 25 MILES OF THE CITY LIMITS OF LOS ANGELES:

Rates Fringes

SPRINKLER FITTER..... ..\$ 37.32 28.27

SFCA8789-883 87/81/2015

SAN CLEMENTE ISLAND, THE CITY OF SANTA ANA, AND THAT PART OF ORANGE COUNTY WITHIN 25 MILES BEYOND THE CITY LIMITS OF LOS ANGELES:

Rates Fringes

<https://www.wdol.gov/wdol/scafiles/davisbacon/CA35.dvb?v=4> 21/26

311312017 <https://www.wdol.gov/wdol!scafiles/davisbacon/CA35.dvb?v=4>

SPRINKLER FITTER (Fire).....\$ 42.93 24.04

SHEE0105-003 07/01/2016

LOS ANGELES (South of a straight line drawn between Gorman and Big Pines)and Catalina Island, INYO, KERN (Northeast part, East of Hwy 395), MONO ORANGE, RIVERSIDE, AND SAN BERNARDINO COUNTIES

Rates Fringes

SHEET METAL WORKER (1)Commercial - New Construction and Remodel work.....\$ 41.86

(2)Industrial work including air pollution control systems, noise abatement, hand rails, guard rails, excluding aritechtrual sheet metal work, excluding A-C, heating, ventilating systems for human comfort...\$ 41.86

26.88

TEAM0011-002 08/01/2016

Rates Fringes

TRUCK DRIVER

GROUP 1.....	\$ 29.09	26.39
GROUP 2.....	\$ 29.24	26.39
GROUP 3.....	\$ 29.37	26.39
GROUP 4.....	\$ 29.56	26.39
GROUP 5.....	\$ 29.59	26.39
GROUP 6.....	\$ 29.62	26.39
GROUP 7.....	\$ 29.87	26.39
GROUP 8.....	\$ 30.12	26.39
GROUP 9.....	\$ 30.32	26.39
GROUP 10.....	30.62	26.39
GROUP 11.....	31.12	26.39
GROUP 12.....	31.55	26.39

WORK ON ALL MILITARY BASES:

PREMIUM PAY: \$3.88 per hour additional.

[29 palms Marine Base, Camp Roberts, China Lake, Edwards AFB, El Centro Naval Facility, Fort Irwin, Marine Corps Logistics Base at Nebo & Yermo, Mountain Warfare Training Center, Bridgeport, Point Arguello, Point Conception, Vandenberg AFB]

TRUCK DRIVERS CLASSIFICATIONS GROUP 1: Truck driver

GROUP 2: Driver of vehicle or combination of vehicles - 2 axles; Traffic control pilot car excluding moving heavy equipment permit load; Truck mounted broom

<https://www.wdol.gov/wdol/scafiles/davisbacon/CA35.dvb?v=4> 22126

3/13/2017 <https://www.wdol.gov/wdol/scafiles/davisbacon/CA35.dvb?v=4>

GROUP 3: Driver of vehicle or combination of vehicles - 3 axles; Boot person; Cement mason distribution truck; Fuel truck driver; Water truck - 2 axle; Dump truck, less than 16 yds. water level; Erosion control driver

GROUP 4: Driver of transit mix truck, under 3 yds.; Dumpcrete truck, less than 6-1/2 yds. water level

GROUP 5: Water truck, 3 or more axles; Truck greaser and tire person (\$0.50 additional for tire person); Pipeline and utility working truck driver, including winch truck and plastic fusion, limited to pipeline and utility work; Slurry truck driver

GROUP 6: Transit mix truck, 3 yds. or more; Dumpcrete truck, 6-1/2 yds. water level and over; Vehicle or combination of vehicles - 4 or more axles; Oil spreader truck; Dump truck, 16 yds. to 25 yds. water level

GROUP 7: A Frame, Swedish crane or similar; Forklift driver; Ross carrier driver

GROUP 8: Dump truck, 25 yds. to 49 yds. water level; Truck repair person; Water pull - single engine; Welder

GROUP 9: Truck repair person/welder; Low bed driver, 9 axles or over

GROUP 10: Dump truck - 50 yds. or more water level; Water pull - single engine with attachment

GROUP 11: Water pull - twin engine; Water pull - twin engine with attachments; Winch truck driver - \$1.25 additional when operating winch or similar special attachments

GROUP 12: Boom Truck 17K and above

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

=====
Note: Executive Order (EO)13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.
<https://www.wdol.gov/wdol/scafiles/davisbacon/CA35.dvb?v=4> 23/26

3/13/2017 <https://www.wdol.gov/wdol/scafiles/davisbacon/CA35.dvb?v=4>

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or "UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM.e198-ee5.e7/e1/2e14. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. e198 indicates the local union number or district council number where applicable, i.e., Plumbers Local e198. The next number, ee5 in the example, is an internal number used in processing the wage determination. e7/e1/2e14 is the effective date of the most current negotiated rate, which in this example is July 1, 2e14.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA.2e12-ee7.5/13/2e14. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2e12 is the year of survey on which these classifications and rates are based. The next number, ee7 in the example, is an internal number used in producing the wage determination. 5/13/2e14 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

Union Average Rate Identifiers

<https://www.wdol.gov/wdol/scafiles/davisbacon/CA35.dvb?v=4> 24/26

3/13/2017 <https://www.wdof.gov/lwdol/scafiles/davisbacon/CA35.dvb?v=4>

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 188% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-8818 88/29/2814. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 8818 in the example, is an internal number used in producing the wage determination. 88/29/2814 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
2e8 Constitution Avenue, N.W. Washington, DC 2821e

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
2e8 Constitution Avenue, N.W.
Washington, DC 28218

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material,

<https://www.wdof.gov/wdof/scafiles/davisbacon/CA35.dvb?v=4> 25126

3/13/2017 <https://www.wdol.gov/\1/dol/scafiles/davisbaco!VCA35.dvb?v=4>

etc.)that the requestor considers relevant to the issue.

3.)If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board.) Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W. Washington, DC 20210

4.)All decisions by the Administrative Review Board are final.

=====

END OF GENERAL DECISION

Caltrans Required Provisions

Notwithstanding any other provisions in the Contract documents, the following shall take precedence:

Contractor’s Assurance Clause Regarding Non-Discrimination (EEO)

Contractor shall ensure that the following clause is placed in every Subcontract agreement:

The Contractor, with regard to the work performed by it during the AGREEMENT, shall not discriminate on the grounds of race, color, sex, national origin, religion, age, or disability in the selection and retention of sub-applicants, including procurements of materials and leases of equipment. The Contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the agreement covers a program set forth in Appendix B of the Regulations.

I. PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES (DBE)

The COUNTY receives Federal Highway Administration (FHWA) federal-aid from the California Department of Transportation (Caltrans) and as a condition of receiving such assistance, the COUNTY has developed a Disadvantaged Business Enterprise (DBE) Program, in accordance with federal regulations published under Title 49 CFR, Part 26, “Participation by Disadvantaged Business Enterprises in Department of Transportation Programs,” Caltrans Local Assistance Procedures Manual (LAPM) and subsequent Guidance in conformance with Title 49 CFR Part 26,

This DOT-assisted project is subject to these stipulated regulations and the COUNTY’s DBE Program, which are hereby incorporated in their entirety by this reference. In order to ensure that the COUNTY achieves its overall DBE Program goals and objectives, the COUNTY encourages the participation of DBEs as defined in 49 CFR 26 in the performance of contracts financed in whole or in part with U.S. DOT funds.

The Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The Contractor shall carry out applicable requirements of federal law. Failure by the Contractor to carry out these requirements is a material breach of this

Contract, which may result in the termination of this Contract or such other remedy as the COUNTY deems appropriate.

Any terms used in this section that are defined in 49 CFR Part 26, or elsewhere in the Regulations, must have the meaning set forth in the Regulations. In the event of any conflicts or inconsistencies between the Regulations and the COUNTY's DBE Program with respect to DOT-assisted contracts, the Regulations must prevail.

A. DBE Goal

The COUNTY has developed a 12% Disadvantaged Business Enterprise (DBE) goal for this contract in accordance with federal regulations published under Title 49 CFR, Part 26, Caltrans Local Assistance Procedures Manual (LAPM) and subsequent Guidance.

The COUNTY established a 12% DBE contract-specific goal on this project and the Contractor has committed to 12% DBE participation. The Contractor is required to demonstrate DBE responsiveness towards meeting the 12% DBE contract-specific goal on this project and their original DBE commitments.

B. DBE CERTIFICATION AND ELIGIBILITY

1. The COUNTY requires all DBEs listed for participation to be DBE certified by a California Unified Certification Program (CUCP) certifying member agency. The COUNTY is a non-certifying member agency of the CUCP. Therefore, the COUNTY will accept DBE certifications from member agencies which certify the eligibility of DBEs in accordance with 49 CFR Part 26.81, under the CUCP. Listings of DBEs certified by the CUCP are available at www.dot.ca.gov/hq/bep/find_certified.htm.
2. It is the responsibility of the Contractor to verify the DBE certification status of all listed DBEs prior to listing the firm as a DBE participant.
3. It is also the responsibility of the Contractor to ensure that each DBE is certified in the NAICS code that corresponds to the DBE's contract scope of work. The COUNTY's evaluation of the "Disadvantaged Business Enterprise (DBE) Participation Listing" form requires DBEs to be certified for the scope listed in accordance with the regulatory requirements.
4. A DBE may participate as a prime Contractor, subcontractor, joint venture partner with a prime or subcontractor, vendor of material or supplies, or trucking company.

5. A DBE joint venture partner must be responsible for specific contract items of work, or clearly defined portions thereof. Responsibility means actually performing, managing and supervising the work with its own forces. The DBE joint venture partner must share in the capital contribution, control, management, risks and profits of the joint venture commensurate with its ownership interest.
6. A DBE must perform a commercially useful function in accordance with 49 CFR 26.55.
7. A DBE performs a commercially useful function when it is responsible for execution of work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself.
8. A DBE should perform at least thirty percent (30%) of the total cost of its contract with its own workforce to presume that it is performing a commercially useful function.
9. A DBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation.

C. DBE “FRAUDS” AND “FRONTS”

Only legitimate DBEs are eligible to participate in federally funded contracts. Therefore, Contractor are cautioned against knowingly and willfully using “fronts” to meet DBE goals. The use of “fronts” and “pass through” subcontracts to non-disadvantaged firms constitutes criminal violations. Further, any indication of fraud, waste, abuse, or mismanagement of Federal funds should be immediately reported to the Office of Inspector General (OIG), U.S. Department of Transportation, via the online hotline at <https://www.oig.dot.gov/dot-oig-hotline-complaint-form>, toll-free hotline at 800-424-9071, email at hotline@oig.dot.gov, online complaint form at <https://www.oig.dot.gov/dot-oig-hotline-complaint-form> or U.S. mail at DOT Inspector General, 1200 New Jersey Ave SE, West Bldg. 7th Floor, Washington, DC 20590. The hotline is open 24 hours per day, seven days per week. Additional information can be found on www.oig.dot.gov/hotline.

D. Submission of DBE Information and On-going Reporting Requirements (Post-Award)

If there is a DBE goal on the contract or a DBE firm has been listed by the Contractor, the Contractor must complete and submit the following DBE forms and/or documentation:

1. “Monthly DBE Subcontractor Commitment and Attainment Report/Payment

Verification Summary” (Form 103)

If the Contractor is a DBE and/or has proposed to utilize DBEs, the Contractor will be required to complete and submit Form 103 to the COUNTY by the 15th of each month until completion of the Contract, following the first month of contract activity. Upon completion of the contract, the Contractor must clearly mark the last Form 103 submission “Final” to facilitate reporting and capturing actual DBE attainments. Failure to submit these reports in a timely manner shall result in a penalty of \$10 per day, per report. Failure to submit required reports may also result in additional administrative sanctions pursuant to the COUNTY’s DBE Policy and 49 CFR Part 26.

The purpose of this form is to ensure Contractor DBE commitments are attained, properly reported and credited in accordance with DBE crediting provisions based on the capacity the DBE performs the scope of work. This form further serves to collect DBE utilization data required under 49 CFR Part 26.

The COUNTY Form 103 Report must include the following information:

- a. General Contract Information – Including Contract Number and Name, Prime Contractor and the following:
 - i. Original Contract Amount
 - ii. Running Total of Change Order Amount
 - iii. Current Contract Amount
 - iv. Amount Paid to Contractor during Month
 - v. Amount Paid to Contractor from Inception to Date
 - vi. Date of last progress payment
 - vii. DBE Contract Goal
 - viii. Total Dollar Amount of DBE Commitment
 - ix. DBE Commitment as Percentage of Prime Current Contract Amount
- b. Listed and/Proposed Contractor/Subcontractor Information – For All DBE participation being claimed either Race Neutrally or Race Consciously, regardless of tier:
 - i. DBE Firm Name, Address, Phone Number, DBE Type of Operation, Certification, and Type and Certification Number.
 - ii. DBE Firm Contract Value Information:

- iii. Original contract amount, running total of change order amount, Current contract amount, Amount paid to Contractor during month and Amount paid to Contractor to date.
2. Contractor signature under penalty of perjury that it has complied with all requirements of 49 CFR, Part 26 and prompt payment requirements of the California Public Contract Code.

Contractor to sign the prompt payment assurance statement of compliance contained within the Form 103. Contractor is to further maintain and submit a detailed running tally of related invoices submitted by DBE(s) and Non DBE(s), including dates of invoice submission, dates accepted and corresponding dates and amount of payments made on the Payment Verification Form. The Payment and Retention Reporting tally must also include:

DBE(s) and Non DBE(s) Invoice Number, Invoice Amount, Invoice Date, Prime Contractor's Invoice Number that incorporated the corresponding DBE and Non DBE invoice(s) for billing purposes, Date of Invoice submission to COUNTY, date and amount COUNTY paid on Prime Contractor's Invoice. The report must also reflect a breakout of retention withheld (including retention as specified in subcontract agreement(s) and disputed invoice retention) and retention payments made, check number and date paid to DBE and Non DBE.

Contractor is advised not to report the participation of DBE(s) toward the Contractor's DBE attainment until the amount being claimed has been paid to the DBE. Verification of payments and/or a signed Verification of Payment by the applicable DBE or Non DBE must be submitted with Form 103 to authenticate reported payments.

3. DBE Subcontract Agreements

The Contractor must submit to the COUNTY copies of executed subcontracts and/or purchase orders (PO) for all DBE firms participating on the contract within ten working days of award. The Contractor must immediately notify the COUNTY in writing of any problems it may have in obtaining the subcontract agreements from listed DBE firms within the specified time.

4. "Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First Tier Subcontractors"

Upon completion of the contract, a summary of these records must be prepared on the: "Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First Tier Subcontractors" and certified correct by the Contractor or the Contractor's authorized representative, and must be furnished to the Engineer. The form must be furnished to the COUNTY within 90 days from the date of contract

acceptance. The amount of \$10,000 will be withheld from payment until a satisfactory form is submitted.

5. “Disadvantaged Business Enterprises (DBE) Certification Status Change”

If a DBE Subcontractor is decertified during the life of the project, the decertified Subcontractor must notify the Contractor in writing with the date of decertification. If a Subcontractor becomes a certified DBE during the life of the project, the Subcontractor must notify the Contractor in writing with the date of certification (Attach DBE certification/Decertification letter). The Contractor must furnish the written documentation to the COUNTY.

Upon completion of the contract, the "Disadvantaged Business Enterprises (DBE) Certification Status Change" must be signed and certified correct by the Contractor indicating the DBEs' existing certification status. If there are no changes, please indicate “No Changes”. The certified form must be furnished to the COUNTY within 90 days from the date of contract acceptance.

E. DBE Crediting Provisions

Credit for DBE participation is determined according to the following provisions:

- When a DBE is proposed to participate in the Contract, either as a prime Contractor or subcontractor, only the value of the work proposed to be performed by the DBE with its own forces may be counted toward DBE participation.
- If the Contractor is a DBE joint venture participant, only the DBE proportionate interest in the joint venture shall be counted.
- If a DBE intends to subcontract part of the work of its subcontract to a lower tier subcontractor, the value of the subcontracted work may be counted toward DBE participation only if the DBE subcontractor is a certified DBE and actually performs the work with its own forces. Services subcontracted to a non-DBE firm may not be credited toward the prime Contractor’s DBE attainment.
- Contractor is to calculate and credit participation by eligible DBE vendors of equipment, materials, and suppliers toward DBE attainment, as follows:
 1. Sixty percent (60%) of expenditure(s) for equipment, materials, and supplies required under the Contract, obtained from a regular dealer; or
 2. One hundred percent (100%) of expenditure(s) for equipment, materials, and supplies required under the Contract, obtained from a DBE manufacturer.

- The following types of fees or commissions paid to DBE subcontractors, brokers, and packagers may be credited toward DBE attainment, provided that the fee or commission is reasonable, and not excessive, as compared with fees or commissions customarily allowed for similar work, including:
 1. Fees and commissions charged for providing bona fide professional or technical services, or procurement of essential personnel, facilities, equipment, materials, or supplies required in the performance of the Contract;
 2. Fees charged for delivery of material and supplies (excluding the cost of materials or supplies themselves) when the licensed hauler, trucker, or delivery service is not also the manufacturer of, or a regular dealer in, the material and supplies;
 3. Fees and commissions charged for providing any insurance specifically required in the performance of the Contract.
- Contractor may count the participation of DBE trucking companies toward DBE attainment, as follows:
 1. The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular Contract.
 2. The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the Contract.
 3. The DBE receives credit for the total value of the transportation services it provides on the Contract using trucks it owns, insures, and operates using drivers it employs.
 4. The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the Contract.
 5. The DBE may also lease trucks from a non-DBE firm, including an owner-operator. The DBE who leases trucks from a non-DBE is entitled to credit only for the fee or commission it receives as a result of the lease arrangement. The DBE does not receive credit for the total value of the transportation services provided by the lessee, since these services are not provided by a DBE.
 6. For purposes of this paragraph, a lease must indicate that the DBE has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.

- If the Contractor listed a non-certified DBE 1st tier subcontractor to perform work on this Contract, and the non-certified DBE subcontractor subcontracts a part of its work or purchases materials and/or supplies from a lower-tier DBE certified subcontractor or Vendor, the value of work performed by the lower-tier DBE firm's own forces can be counted toward DBE participation on the Contract.
- The Contractor is advised not to count the participation of DBEs toward the Contractor's DBE attainment until the amount being counted has been paid to the DBE.

F. Performance of DBE Subcontractors

The following requirements govern the performance of DBE subcontractors:

- DBEs listed by the Contractor in its "DBE Participation Listing" Form submitted with the executed Contract documents shall perform the work and supply the materials for which they are listed, unless the Contractor has received prior written authorization from the COUNTY to perform the work with other forces or to obtain the materials from other sources.
- Contractor shall provide written notification to the COUNTY in a timely manner of any changes to its anticipated DBE participation. This notice should be provided prior to the commencement of that portion of the work.

G. DBE Addition/Substitution/Termination Form

In the event that the Contractor identifies additional DBE subcontractors or suppliers not previously identified for DBE participation under the Contract, Contractor shall notify the COUNTY by completing and submitting a **"DBE Addition/Substitution/ Termination" form** to enable Contractor to capture all DBE participation. Contractor shall also submit, for each DBE identified after Contract execution, a written confirmation from the DBE acknowledging that it is participating in the Contract for a specified value, including the corresponding scope of work (a subcontract agreement can serve in lieu of the written confirmation).

Contractor shall be required to comply with 49 CFR § 26.53 regarding DBE subcontractor terminations, including the following:

- A Contractor shall not terminate a listed DBE subcontractor without the COUNTY's prior written consent.
- Prior to the termination request, the prime Contractor must notify the DBE, in writing, of the intent to terminate, allowing for five days of response time in opposition of the rejection.

- A Contractor may only terminate a DBE subcontractor for “good cause,” as defined in 49 CFR § 26.53.
- Good cause does NOT exist if the failure or refusal of the DBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the Contractor (e.g., failure of the Contractor to make timely payments or the unnecessary placing of obstacles in the path of the DBE’s work). Good cause also does NOT exist if the Contractor seeks to terminate a DBE so that it can self-perform the work of the terminated DBE.
- In the event that the Contractor needs to substitute or terminate a DBE firm and if the substitution/termination request meets the definition of “good cause,” the Contractor shall notify the COUNTY by completing and submitting a **“DBE Addition/Substitution/Termination Request” form** for the COUNTY’s written approval prior to actualizing any changes.
- The Contractor must make a Good Faith Effort (GFE) to replace the terminated DBE with another DBE. The Contractor’s GFE shall be directed at finding another DBE to perform at least the same amount of work under the contract as the DBE that was terminated, to the extent needed to meet the established DBE contract goal and/or the Contractor’s DBE participation commitment approved by the COUNTY prior to award of the Contract.
- Failure by the Contractor to adhere to these requirements may constitute a material breach of contract, which may result in the termination of the contract or such other remedy as the COUNTY deems appropriate.

H. Non-Compliance and Administrative Sanctions

A Contractor determined to be non-compliant with DBE Program requirements may be subject to administrative sanctions as outlined below:

- A non-compliant Contractor may be notified by the DBELO or designee, that administrative remedies shall be imposed for failure to: (a) meet the Contractor’s DBE commitment by contract end, (b) submit documentation of Good Faith Efforts, (c) submit required DBE utilization reports, (d) submit verification of prompt payment to DBE subcontractors, and/or (e) comply with proper DBE termination procedures. The notice shall state the specific administrative remedies to be imposed.
- The Contractor shall be given ten (10) working days from the date of the notice to file a written appeal to the COUNTY’s Executive Director. Failure to respond within the ten (10) day period shall constitute a waiver of appeal.

- The Executive Director or his designee may schedule a hearing to gather additional facts and evidence, and shall issue a final written determination on the matter within thirty (30) working days following receipt of the written appeal. The written decision of the Executive Director or designee is final and there is no further appeal.
- Administrative remedies shall be determined by the DBELO and/or designee and may include, but will not be limited to:
 1. Suspension of progress payments to the Contractor or of any monies held by the COUNTY as retention on the contract until the Contractor is brought into compliance; and/or
 2. Termination of the contract in part or in whole.

I. Contractor’s Assurance Clause Regarding Non-Discrimination

Contractor shall ensure that the following clause is placed in every Subcontract agreement:

“The Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The Contractor shall carry out applicable requirements of federal law. Failure by the Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as the COUNTY deems appropriate.”

SCHEDULE OF WORK ITEMS

ITEM	DESCRIPTION	UNIT	QTY	UNIT COST	TOTAL
1	Mobilization	L.S.	1	\$ 50,000.00	\$ 50,000.00
2	Traffic Control	L.S.	1	\$ 20,000.00	\$ 20,000.00
3	Erosion, Sediment and Chemical Control Plan	L.S.	1	\$ 4,800.00	\$ 4,800.00
4	Project Information Sign	EA.	4	\$ 505.00	\$ 2,020.00
5	Remove and Replace PCC Access Ramp	EA.	1	\$ 6,592.00	\$ 6,592.00
6	Remove and Replace PCC Access Ramp and Spandrel	EA.	1	\$ 11,845.00	\$ 11,845.00
7	Remove and Replace PCC Cross Gutter	S.F.	181	\$ 30.90	\$ 5,592.90
8	Remove and Replace Asphalt Concrete Curb: D1-8	L.F.	758	\$ 13.00	\$ 9,854.00
9	Fog Seal Asphalt Concrete Curb	L.F.	758	\$ 1.10	\$ 833.80
10	Remove AC Sidewalk - 4" Depth	C.Y.	40	\$ 120.00	\$ 4,800.00
11	Place AC Sidewalk - 4" Thickness	TON	77	\$ 185.00	\$ 14,245.00
12	Remove AC Slot for PCC Work	C.Y.	3	\$ 154.00	\$ 462.00
13	Place AC Pavement Following PCC Work	TON	6	\$ 285.00	\$ 1,710.00
14	Remove Asphalt Concrete	C.Y.	567	\$ 120.00	\$ 68,040.00
15	Asphalt Concrete: Patching	TON	1,106	\$ 72.00	\$ 79,632.00
16	Untreated Base	TON	40	\$ 66.50	\$ 2,660.00
17	Crack Seal: Non-Routed	L.F.	50,000	\$ 0.66	\$ 33,000.00
18	Cold Mill Asphalt: Wedge Cut	L.F.	9,910	\$ 1.23	\$ 12,189.30
19	Cold Mill Asphalt: Other	S.F.	50,663	\$ 0.24	\$ 12,159.12
20	Dispose of Cold Mill Grind Material	C.Y.	844	\$ 13.00	\$ 10,972.00
21	Asphalt Concrete: ARHM - .25' depth	TON	5,755	\$ 70.00	\$ 402,850.00
22	Rock Dust Blotter	TON	39	\$ 160.00	\$ 6,240.00
23	Shoulder Reshaping	L.F.	1,568	\$ 2.15	\$ 3,371.20

24 (D)	Manhole- Adjust by Others	EA.	9	\$ 672.10	\$ 6,048.90
25 (D)	Manhole- OCSD Sewer	EA.	18	\$ 672.10	\$ 12,097.80
26 (D)	Water Valve-Adjust by Others	EA.	39	\$ 672.10	\$ 26,211.90
27	Manhole – OCFCO Storm Drain	EA.	1	\$ 672.10	\$ 672.10
28	Adjust Survey Monument	EA.	1	\$ 697.14	\$ 697.14
29	4" Double Yellow	L.F.	5,970	\$ 0.71	\$ 4,238.70
30	4" Skip Double Yellow	L.F.	75	\$ 1.04	\$ 78.00
31	4" Solid White	L.F.	2,630	\$ 0.31	\$ 815.30
32	4" Skip White	L.F.	3,325	\$ 0.31	\$ 1,030.75
33	4" Skip Yellow	L.F.	343	\$ 0.31	\$ 106.33
34	6" Solid White	L.F.	4,965	\$ 0.54	\$ 2,681.10
35	6" Skip White	L.F.	42	\$ 0.54	\$ 22.68
36	8" Solid White	L.F.	665	\$ 0.68	\$ 452.20
37	12" Solid White	L.F.	365	\$ 1.66	\$ 605.90
38	12" Solid Yellow	L.F.	1,068	\$ 1.66	\$ 1,772.88
39	Yellow "Zebra" Cross Walk	S.F.	768	\$ 1.66	\$ 1,274.88
40	"Stop" Stencil	EA.	9	\$ 76.00	\$ 684.00
41	"Ahead" Stencil	EA.	3	\$ 94.00	\$ 282.00
42	"Slow School Xing" Stencil (Yellow)	EA.	2	\$ 263.00	\$ 526.00
43	"Keep Clear" Stencil	EA.	1	\$ 170.00	\$ 170.00
44	Bicycle Lane Stencil	EA.	2	\$ 71.00	\$ 142.00
45	Left Turn Arrow	EA.	5	\$ 50.00	\$ 250.00
46	Right Turn Arrow	EA.	4	\$ 50.00	\$ 200.00
47	Left Merge Arrow	EA.	2	\$ 86.00	\$ 172.00
48	Yield Line	S.F.	21	\$ 13.00	\$ 273.00
49	Paint Curb: Red	L.F.	758	\$ 1.20	\$ 909.60
50	RPM - ReflectORIZED Clear	EA.	201	\$ 2.10	\$ 422.10
51	RPM - ReflectORIZED Yellow	EA.	376	\$ 2.10	\$ 789.60
52	RPM - ReflectORIZED Blue	EA.	5	\$ 16.00	\$ 80.00
53	Flashing Crosswalk: Hewes Street @ Spring Street	L.S.	1	\$ 51,000.00	\$ 51,000.00

County of Orange
R.J. Noble Company

Attachment A
MA-080-17011696

Asphalt Overlay Resurfacing of Foothill Blvd and Hewes

54	Traffic Detector Loops: Foothill Blvd @ Newport Blvd	L.S.	1	\$ 5,800.00	\$ 5,800.00
----	--	------	---	-------------	-------------

EXHIBIT "A" – Sample Dispute Resolution Board Agreement

DISPUTE RESOLUTION BOARD AGREEMENT

(REV 8/14/2013)

(Contract Identification)

Contract No. _____

THIS DISPUTE RESOLUTION BOARD AGREEMENT, hereinafter called "AGREEMENT", made and entered into this _____ day of _____, _____, between the County of Orange, hereinafter called the "COUNTY,"

_____ hereinafter called the "CONTRACTOR," and the Dispute Resolution Board, hereinafter called the "DRB" consisting of the following members:

_____,
(DRB Member)

_____,
(DRB Member)

and _____
(DRB Chairperson)

WITNESSETH, that

WHEREAS, the COUNTY and the CONTRACTOR, hereinafter called the "parties," are now engaged in the construction on the County project referenced above; and

WHEREAS, the Special Provisions for the above referenced contract provides for the establishment and operation of the DRB to assist in resolving disputes; and

WHEREAS, the DRB is composed of three members, one selected by the COUNTY, one selected by the CONTRACTOR, and the third member selected by the other two members and approved by the parties; and

NOW THEREFORE, in consideration of the terms, conditions, covenants, and performance contained herein, or attached and incorporated and made a part hereof, the COUNTY, the CONTRACTOR, and the DRB members hereto agree as follows:

SECTION I DESCRIPTION OF WORK

To assist in the timely resolution of disputes between the parties, the contract provides for the establishment and the operation of the DRB. The DRB is to fairly and impartially consider disputes placed before it and provide recommendations for resolution of these disputes to the parties. The DRB shall provide recommendations based on the facts related to the dispute, the contract and applicable laws and regulations. The DRB shall perform the services necessary to participate in the DRB's actions as designated in Section III, Scope of Work.

SECTION II DRB QUALIFICATIONS

DRB members shall be knowledgeable in the type of construction and contract documents anticipated by the contract and shall have completed training through the Dispute Resolution Board Foundation. Candidates shall have substantial experience in or directly related to public works heavy highway construction projects with or on behalf of federal, state or local government agencies, particularly Caltrans.

Experience shall be a minimum of 10 years in any combination of the following:

- a) Supervisor, manager, or executive in public works heavy highway construction contracts with emphasis in resolution of disputes arising out of said contracts.
- b) Attorney representing parties in litigating or arbitrating public works heavy highway construction contract claims.
- c) Judge or arbitrator adjudicating or otherwise resolving public works heavy highway construction contract claims.

No DRB member shall have prior direct involvement in this contract. No DRB member shall have a financial interest in this contract or parties thereto, including but not limited to the CONTRACTOR, subcontractors, suppliers, consultants, and legal and business services, within a period 6 months prior to award and during this contract. Exceptions to above are compensation for services on this or other DRBs or retirement payments or pensions received from a party that are not tied to, dependent on or affected by the net worth of the party.

DRB members shall fully disclose all direct or indirect professional or personal relationships with all key members of the contract.

SECTION III SCOPE OF WORK

The scope of work of the DRB includes, but is not limited to, the following:

A. PROCEDURES

The DRB shall establish procedures that will govern the conduct of its business and reporting procedures in conformance with the requirements of the contract and the terms of this

AGREEMENT. The DRB established procedures shall only be implemented upon approval of the parties.

The DRB Chairperson shall schedule progress and dispute meetings and any other DRB activities.

The parties shall not call on any of the DRB members, who served on this contract, as a witness in arbitration proceedings, which may arise from this contract.

DRB members shall have no claim against the COUNTY or the CONTRACTOR, or both, from claimed harm arising out of the parties' evaluations of the DRB's opinions.

During progress or dispute meetings, DRB members shall refrain from expressing opinions on the merits of statements on matters under dispute or potential dispute. Opinions of DRB members expressed in private sessions shall be kept strictly confidential. Individual DRB members shall not meet with, or discuss contract issues with individual parties. Discussions regarding the project between the DRB members and the parties shall be in the presence of all three members and both parties. Individual DRB members shall not undertake independent investigations of any kind pertaining to disputes or potential disputes, except with the knowledge of both parties and as expressly directed by the DRB Chairperson.

B. PROGRESS MEETINGS

DRB members shall visit the project site and meet with representatives of the parties to keep abreast of construction activities and to develop familiarity with the work in progress. Scheduled progress meetings shall be held at or near the project site. The DRB shall meet at least once at the start of the project, and at least once every 4 months thereafter. The frequency, exact time, and duration of additional site visits and progress meetings shall be as recommended by the DRB and approved by the parties consistent with the construction activities or matters under consideration and dispute. Scheduled progress meetings may be waived, if the parties are in agreement, when the only work remaining is plant establishment work. Each meeting shall consist of a round table discussion and a field inspection of the work being performed on the contract, if necessary. Each meeting shall be attended by representatives of both parties. The agenda shall generally be as follows:

1. Meeting opened by the DRB Chairperson.
2. Remarks by the COUNTY's representative.
3. A description by the CONTRACTOR's representative of work accomplished since the last meeting; the current schedule status of the work; and a forecast for the coming period.
4. An outline by the COUNTY's representative of the status of the work as the COUNTY views it.
5. An outline by the CONTRACTOR's representative of potential problems and a description of proposed solutions.
6. A brief description by the CONTRACTOR's and the COUNTY's representative of potential claims and disputes that have surfaced since the last meeting.
7. A summary by the COUNTY's representative, the CONTRACTOR's representative, or the DRB of the status of past potential claims and disputes.

The COUNTY's representative will prepare minutes of all progress meetings and circulate them for revision and approval by all concerned within 10 days of the meeting.

C. DISPUTE MEETING

The term "dispute meeting" as used in this subsection shall refer to both the informal and traditional dispute meeting processes, unless otherwise noted.

Either the COUNTY or the CONTRACTOR may request a dispute meeting with the DRB. The requesting party shall simultaneously notify the other party of each dispute meeting request. Upon being notified of the need for a dispute meeting, the DRB shall review and consider the dispute. The DRB shall determine the time and location of the dispute meeting with due consideration for the needs and preferences of the parties, while recognizing the importance of a speedy resolution to the dispute.

Dispute meetings shall be conducted at any location that would be convenient and provide required facilities and access to necessary documentation.

No DRB dispute meeting shall take place later than 30 days prior to acceptance of the contract.

Only the COUNTY's Construction Engineer, Resident Engineer, Structure Representative, or Senior Bridge Engineer and the CONTRACTOR's or subcontractor's, Superintendent or Project Manager may present information at a dispute meeting. There shall be no participation of either party's attorneys at DRB meetings.

There shall be no participation of persons who are not directly involved in the contract or who do not have direct knowledge of the dispute. The exception to this is technical services, as described below:

The DRB, with approval of the parties, may obtain technical services necessary to adequately review the disputes presented, including audit, geotechnical, schedule analysis and other services. The parties' technical staff may supply those services as appropriate. The cost of technical services, as agreed to by the parties, shall be borne equally by the two parties as specified in an approved contract change order. The CONTRACTOR shall not be entitled to markups for the payments made for these services.

At the dispute meeting the DRB may ask questions, seek clarification, and request further clarification of data presented by either of the parties as may be necessary to assist in making a fully informed recommendation. However, the DRB shall refrain from expressing opinions on the merits of statements on matters under dispute during the parties' presentations. The claimant shall discuss the dispute, followed by the other party. Each party shall then be allowed one or more rebuttals at the meeting until all aspects of the dispute are thoroughly covered. Each party will be given ample time to fully present its position, make rebuttals, provide relevant documents, and respond to DRB questions and requests.

There shall be no testimony under oath or cross-examination, during DRB dispute meetings.

There shall be no reporting of the procedures by a shorthand reporter or by electronic means.

Documents and verbal statements shall be received by the DRB in conformance with the

procedures established at the first meeting between the DRB and the parties. These established procedures need not comply with prescribed legal laws of evidence.

Failure to attend a dispute meeting by either of the parties shall be conclusively considered by the DRB as indication that the non-attending party considers all written documents and correspondence submitted as their entire and complete argument.

After dispute meetings are concluded, the DRB shall meet in private and reach a conclusion supported by two or more members. Private sessions of the DRB may be held at a location other than the job site or by electronic conferencing as deemed appropriate, in order to expedite the process.

The DRB shall make every effort to reach a unanimous decision.

1. TRADITIONAL DISPUTE MEETING:

The following procedure shall be used for the traditional dispute meeting:

- a. If after the meet and confer requirements of California Public Contract Code 9204 there are portions of a claim that are still in dispute, within 21 days the CONTRACTOR shall refer the dispute to the DRB if the CONTRACTOR wishes to further pursue the dispute. The CONTRACTOR shall make the referral in writing to the DRB, simultaneously copied to the COUNTY. The written dispute referral shall describe the disputed matter in individual discrete segments, so that it will be clear to both parties and the DRB what discrete elements of the dispute have been resolved, and which remain unresolved, and shall include an estimate of the cost of the affected work and impacts, if any, on project completion.
- b. The parties shall each be afforded an opportunity to be present and to be heard by the DRB, and to offer evidence. Either party furnishing written evidence or documentation to the DRB must furnish copies of such information to the other party a minimum of 15 days prior to the date the DRB is scheduled to convene the meeting for the dispute. Either party shall produce such additional evidence as the DRB may deem necessary to reach an understanding and a determination of the dispute. The party furnishing additional evidence shall furnish copies of such additional evidence to the other party at the same time the evidence is provided to the DRB. The DRB shall not consider evidence not furnished in conformance with the terms specified herein.
- c. Upon receipt by the DRB of a written referral of a dispute, the DRB shall convene to review and consider the dispute. The dispute meeting shall be held no earlier than 30 days and no later than 60 days after receipt of the written referral unless otherwise agreed to by all parties.
- d. The DRB may request clarifying information of either party within 10 days after the dispute meeting. Requested information shall be submitted to the DRB within 10 days of the DRB request.
- e. The DRB shall furnish a written report to the parties with its conclusion(s) and recommendation(s). The DRB shall complete its report, including minority opinion, if any, and submit it to the parties within 30 days of the dispute meeting, except that time extensions may be granted at the request of the DRB with the written concurrence of the

parties. The report shall summarize the facts considered, the contract language, law or regulation viewed by the DRB as pertinent to the dispute, and the DRB's interpretation and reasoning in arriving at its conclusion(s) and recommendation(s) and, if appropriate, recommends guidelines for determining compensation. The DRB's written opinion shall stand on its own, without attachments or appendices. The DRB Chairperson shall furnish a copy of the written recommendation report to the DRB Coordinator.

- f. Within 30 days after receiving the DRB's report, the parties shall respond to the DRB in writing signifying that the dispute is either resolved or remains unresolved. Failure to provide the written response within the time specified, or a written rejection of the DRB's recommendation or a written response requesting the DRB reconsider their recommendation, shall conclusively indicate that the party(s) failing to respond accepts the DRB recommendation. Immediately after responses have been received from both parties, the DRB shall provide copies of both responses to the parties simultaneously. Either party may request clarification of elements of the DRB's report from the DRB prior to responding to the report. The DRB shall consider any clarification request only if submitted within 10 days of receipt of the DRB's report, and if submitted simultaneously in writing to both the DRB and the other party. Each party may submit only one request for clarification for any individual DRB report. The DRB shall respond, in writing, to requests for clarification within 10 days of receipt of such requests.
- g. Either party may seek a reconsideration of the DRB's recommendation. The DRB shall only grant reconsideration based upon submission of new evidence and if the request is submitted within the 30 day time limit specified for response to the DRB's written report. Each party may submit only one request for reconsideration regarding an individual DRB recommendation.
- h. If the parties are able to settle their dispute with the aid of the DRB's report, the COUNTY and the CONTRACTOR shall promptly accept and implement the settlement of the parties. If the parties cannot agree on compensation within 60 days of the acceptance by both parties of the settlement, either party may request the DRB to make a recommendation regarding compensation.

2. INFORMAL DISPUTE MEETING

An informal dispute meeting shall be convened, only if, the parties and the DRB agree that this dispute resolution process is appropriate to settle the dispute.

The following procedure shall be used for the informal dispute meeting:

- a. The parties shall furnish the DRB with one copy of pertinent documents requested by the DRB that are or may become necessary for the DRB to perform its function. The party furnishing documents shall furnish such documents to the other party at the same time the document is provided to the DRB.
- b. After the dispute meeting has concluded, the DRB members shall deliberate in private the same day until a response to the parties is reached or as otherwise agreed to by the parties.

- c. The DRB then verbally delivers its recommendation with findings, including minority opinion, if any, to the parties.
- d. After the recommendation is presented, the parties may ask for clarifications.
- e. Occasionally the DRB may be unable to formulate a recommendation based on the information given at a dispute meeting. However, the DRB may provide the parties with advice on strengths and weaknesses of their prospective positions, in the hope of the parties reaching settlement.
- f. If the parties are able to settle their dispute with the aid of the DRB's opinion, the COUNTY and the CONTRACTOR shall promptly accept and implement the settlement of the parties.
- g. The DRB will not be bound by its verbal recommendation in the event that a dispute is later heard by the DRB in a traditional dispute meeting.

Unless the dispute is settled, use of the informal dispute meeting does not relieve the parties of their responsibilities under Section 5-1.15C, "Dispute Resolution Board," of the Caltrans Standard Specifications or subsection, "Traditional Dispute Meeting," of this AGREEMENT. There will be no extension of time allowed for the process to permit the use of the informal dispute meeting, unless otherwise agreed to by the parties.

SECTION IV TIME FOR BEGINNING AND COMPLETION

DRB members shall not begin work under the terms of this AGREEMENT, until authorized in writing by the COUNTY or as agreed to by the parties. Once established, the DRB shall be in operation until the Director accepts the contract. If the contract is terminated in accordance with Section 8-1.08, "Termination of Control," of the Caltrans Standard Specifications, the DRB will be dissolved.

SECTION V PAYMENT

Each DRB member shall be compensated at an agreed rate of \$1,500 per day for time spent per meeting, either at start of project, or a scheduled progress or a dispute meeting. A member serving on more than one County DRB, regardless of the number of meetings per day, shall not be paid more than the agreed rate per day. The agreed rate shall be considered full compensation for on site time, travel expenses, transportation, lodging, time for travel and incidentals for each day, or portion thereof that the DRB member is at an authorized DRB meeting. No additional compensation will be made for time spent by DRB member to review and research activities outside the official DRB meetings unless that time, such as time spent evaluating and preparing recommendations on specific issues presented to the DRB, has been specifically agreed to in advance by the parties. Time away from the project, which has been specifically agreed to in advance by the parties, will be compensated at an agreed rate of \$150 per hour. The agreed amount of \$150 per hour shall include all incidentals including expenses for telephone, fax, and computer services. The County will provide administrative services such as conference facilities to the DRB.

A. PAYMENT PROCESSING

The CONTRACTOR shall make direct payments to each DRB member for their participation in authorized meetings and approved hourly rate charges, from invoices submitted by each DRB member, and technical services.

DRB members may submit invoices to the CONTRACTOR for partial payment for work performed and services rendered for their participation in authorized meetings not more often than once per month during the progress of the work. The invoices shall be in a format approved by the parties and accompanied by a general description of activities performed during that billing period. Payment for hourly fees, at the agreed rate, shall not be paid to a DRB member until the amount and extent of those fees are approved by the COUNTY and the CONTRACTOR.

B. INSPECTION OF COSTS RECORDS

DRB members and the CONTRACTOR shall keep available for inspection by representatives of the COUNTY and the United States federal government, for a period of 3 years after final payment, the cost records and accounts pertaining to this AGREEMENT. If any litigation, claim, or audit arising out of, in connection with, or related to this contract is initiated before the expiration of the 3-year period, the cost records and accounts shall be retained until such litigation, claim, or audit involving the records is completed.

SECTION VI ASSIGNMENT OF TASKS OF WORK

DRB members shall not assign the work of this AGREEMENT.

SECTION VII TERMINATION OF A DRB MEMBER

DRB members may resign after providing not less than 15 days written notice of their resignation to the COUNTY and the CONTRACTOR. A DRB member may be terminated, by either party, for failing to comply at all times with all required employment or financial disclosure conditions of DRB membership in conformance with the terms of the contract and this AGREEMENT.

Service of a DRB member may be terminated at any time with not less than 15 days notice as follows:

- A. The County may terminate service of the County appointed member.
- B. The Contractor may terminate service of the Contractor appointed member.
- C. Upon the written recommendation of the County and Contractor appointed members for the removal of the third member.
- D. Upon resignation of a member.

When a member of the DRB is replaced, the replacement member shall be appointed in the same manner as the replaced member was appointed. The appointment of a replacement DRB member will begin promptly upon determination of the need for replacement and shall be completed within 15 days. Changes in either of the DRB members chosen by the 2 parties will not require re-selection of the third member, unless both parties agree to such re-selection in

writing. The Dispute Resolution Board Agreement shall be amended to reflect the change of a DRB member.

Each party shall document the need for replacement and substantiate the replacement request in writing to the other party and DRB members.

SECTION VIII LEGAL RELATIONS

The parties hereto mutually understand and agree that each DRB member in the performance of duties is acting in the capacity of an independent agent and not as an employee of either party. No party to this AGREEMENT shall bear a greater responsibility for damages or personal injury than is normally provided by Federal or State of California Law.

Notwithstanding the provisions of this contract that require the CONTRACTOR to indemnify and hold harmless the COUNTY, the parties shall jointly indemnify and hold harmless the DRB members from and against all claims, damages, losses, and expenses, including but not limited to attorney's fees, arising out of and resulting from the findings and recommendations of the DRB.

SECTION IX CONFIDENTIALITY

The parties hereto mutually understand and agree that all documents and records provided by the parties in reference to issues brought before the DRB, which documents and records are marked "Confidential - for use by the DRB only," shall be kept in confidence and used only for the purpose of resolution of subject disputes, and for assisting in development of DRB findings and recommendations; that such documents and records will not be utilized or revealed to others, except to officials of the parties who are authorized to act on the subject disputes, for any purposes, during the life of this AGREEMENT. Upon termination of this AGREEMENT, said confidential documents and records, and all copies thereof, shall be returned to the parties who furnished them to the DRB. However, the parties understand that such documents may be subsequently discoverable and admissible in court or arbitration proceedings unless a protective order has been obtained by the party seeking further confidentiality.

SECTION X DISPUTES

Disputes between the parties arising out of the work or other terms of this AGREEMENT, which cannot be resolved by negotiation and mutual concurrence between the parties, or through the administrative process provided in the contract, shall be resolved by arbitration as provided in Section 9-1.10, "Arbitration," of the Caltrans Standard Specifications. Disputes between the DRB and either party, which cannot be resolved by negotiation and mutual concurrence, shall be resolved in the appropriate forum.

SECTION XI VENUE, APPLICABLE LAW, AND PERSONAL JURISDICTION

In the event that any party deems it necessary to institute arbitration proceedings to enforce any right or obligation under this AGREEMENT, the parties hereto agree that such action shall be initiated in the location by the County. The parties hereto agree that all questions shall be resolved by arbitration by application of California law and that the parties to such arbitration shall have the right of appeal from such decisions to the Superior Court in conformance with the

laws of the State of California. Venue for the arbitration shall be location as agreed to by the parties.

SECTION XII FEDERAL REVIEW AND REQUIREMENTS

On Federal-Aid contracts, the Federal Highway Administration shall have the right to review the work of the DRB in progress, except for private meetings or deliberations of the DRB that do not become part of the project records.

Other Federal requirements in this agreement shall only apply to Federal-Aid contracts.

SECTION XIII CERTIFICATION OF CONTRACTOR, DRB, AND COUNTY

IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT as of the day and year first above written.

DRB MEMBER

DRB MEMBER

By: _____

By: _____

Title: _____

Title: _____


DRB CHAIRPERSON

By : _____

Title : _____

CONTRACTOR

COUNTY OF ORANGE

By:  5/16/2017 _____
331483E22BEE4D7...

By: _____

Title: VP _____

Title: _____