

# Redwood Coast Energy Authority

## INVITATION FOR BIDS

### Fencing Installation for ACV Microgrid

#### DEADLINE FOR SUBMITTING BIDS:

3:00 p.m., June 23, 2020

All bids must be submitted electronically to:

**Patricia Terry, Project Manager**  
**Redwood Coast Energy Authority (RCEA)**  
**[pterry@redwoodenergy.org](mailto:pterry@redwoodenergy.org)**

#### Mandatory Pre-Proposal Site Visit

A mandatory pre-proposal site visit will be held to acquaint all prospective bidders with the Contract Documents and the Project site. Failure to attend the site visit may result in the disqualification of the bid of the non-attending bidder. **This is a federally controlled facility and all participation will be monitored.** Interested Contractors must notify RCEA by phone or e-mail if planning to attend at least 24 hours prior to pre-proposal site visit date.

RCEA has determined this is an essential service. All attendees must wear a face mask and practice social distancing requirements as directed by the Humboldt County Health Office Orders while the Order(s) are in effect. Information regarding the County Health Officer's Orders can be found here: <https://humboldt.gov/2725/Local-Orders>

**Date:** June 11, 2020

**Time:** 1:30 p.m.

**Location:** California Redwood Coast – Humboldt County Airport (ACV)  
3561 Boeing Avenue  
McKinleyville, CA 95519

**Contacts:** Patricia Terry, Project Manager  
[pterry@redwoodenergy.org](mailto:pterry@redwoodenergy.org)  
(707) 382-2098

## OVERVIEW

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Redwood Coast Energy Authority (RCEA) is soliciting bids from interested contractors to implement construction of a fence along the project line as part of the site preparation for the upcoming ACV Microgrid project. The goal of the project is to complete an FAA approved fence to contain the project and secure the runway area of the airport. The price shall be full compensation for furnishing all materials, and for all preparation, erection, and installation of these materials, and for all labor equipment, tools, and incidentals necessary to complete the project. Estimated project value is \$97,000.00. All work must be completed by September 18, 2020.

The Contract to be awarded under this solicitation is subject to State contract non-discrimination and compliance requirements pursuant to Government Code §12990. RCEA hereby notifies all bidders that it will affirmatively ensure that disadvantaged business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, sex, or national origin in consideration for an award.

This Project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. Each contractor or subcontractor listed on the bid proposal must be registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5. Pursuant to Section 1733 of the Labor Code, the Director of California Department of Industrial Relations has determined the general prevailing rate of wages. Bidders should contact the Department of Industrial Relations at (415) 703-4281 for General Prevailing Wage Rates on specific job classifications. Future effective wage rates, which have been predetermined, are on file with the California Department of Industrial Relations. Bidders are advised that if they intend to use a craft or classification not on file in the general wage determinations, they may be required to pay the wage rate of that craft or classification most closely related to it as shown in the general determinations.

All bidders shall be licensed in accordance with the laws of the State of California. RCEA reserves the right to reject any and all bids. This Project is contingent on receiving Federal Aviation Administration (FAA) approval prior to beginning Work. The project is further contingent upon the County of Humboldt entering into a lease agreement for the underlying property on which the Work will occur.

A proposed schedule indicating the timeline for this solicitation is presented below.

## SCHEDULE

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The following is a schedule of significant events and deadlines:

Issue Date	<b>Wednesday, June 3, 2020</b>
Mandatory Pre-Proposal Site Visit:	<b>1:30 p.m., June 11, 2020</b>
Bids due:	<b>By 3:00 p.m., June 23, 2020</b>
Public bid opening:	<b>After 3:00 p.m., June 23, 2020</b>
Anticipated bid award date:	<b>Thursday, June 25, 2020</b>
Installation start date:	<b>After September 1, 2020</b>
Installation complete:	<b>No later than September 18, 2020</b>

# **CONSTRUCTION BID DOCUMENTS**

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## **SCOPE OF WORK**

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Redwood Coast Energy Authority (“RCEA”) is soliciting bids from licensed and qualified contractors for the following scope of work for fencing installation at the California Redwood Coast – Humboldt County Airport (ACV) in McKinleyville, California. Contractor shall provide all material, labor, equipment, and supervision required to accomplish the following:

**Base Bid:** Provide and install approximately 1,545.5 feet of fencing per plans and specifications using new materials. Base bid should be a lump sum to include the fencing shown in Exhibit A, grounding, and vehicle gate. Per specifications, the price shall be full compensation for furnishing all materials, and for all preparation, erection, and installation of these materials, and for all labor equipment, tools, and incidentals necessary to complete the project.

1. Provide and install fencing per plans and specifications.
  - a. Location
    - i. See Exhibit A for a site plan of project.
    - ii. The Contractor shall layout the fence line precisely using survey grade instrumentation based on the northings and eastings shown on the plans.
  - b. Demolition
    - i. Clearing of the fence line should be per specifications 162-3.2.
    - ii. The main brush clearing was completed last year.
  - c. Installation
    - i. Provide and install all items as required per plans and specifications (Exhibit A).
    - ii. Use construction methods as required per specifications
    - iii. Provide grounding per plans at specified locations.
    - iv. Connect fencing per details in the ACV Fence Plans.
    - v. All posts shall be set in concrete at the required dimension and depth and at the spacing shown on the plans.
    - vi. Color of fencing shall match the existing: Evergreen.
2. This work requires a C-13 contractor license. Bidders must be DIR registered.
3. Site Requirements:
  - a. The contractor will schedule work between the hours of 7:30 a.m. and 6:00 p.m. Monday through Friday unless authorized to do otherwise.
  - b. Parking will be only on Baadsgaard Avenue or within the project site area.
  - c. Contractor personnel shall be clearly identified with the name of company on their uniform for security purposes when on airport property. Contractor will clearly post name of business on all company vehicles.
  - d. Contractor is responsible for ensuring that all work is done in a safe and responsible manner. Any damage done to either Humboldt County property or private property shall be the responsibility of the Contractor to repair or to make arrangements to repair with RCEA approval. This would be done prior to final payment of contract.
4. Coordinate with the RCEA Project Manager and the Engineer of Record to ensure adherence to construction documents and guidelines, plans, and specifications.

- a. To comply with the State of California pursuant to Labor Code Section 1725.5.
  - b. Contractor acknowledges that the project is subject to compliance monitoring and enforcement by the California Department of Industrial Relations in accordance with SB 854.
  - c. Work with the RCEA Project Manager to assure a safe and secure work environment with escorts on ACV airport property while tree removal is commencing. Work to proceed once project receives FAA approval.
  - d. A CEQA Mitigated Negative Declaration and NOD has been filed with the county.
  - e. Permit for this project is in process with Humboldt County to include all phases of the project. Contractor is not responsible for obtaining permits for this project.
  - f. Coordinate with RCEA Project Manager and Wiyot Tribe for cultural monitoring for ground disturbing activities if any activity will disturb topsoil surface more than 12". Cultural monitor will oversee and inspect native ground disturbing activities for the presence of cultural resources and or human remains. RCEA will be responsible for implementing all requirements per agreement with Wiyot Tribe.
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## **INSTRUCTIONS TO BIDDERS**

Each bid submitted to the Redwood Coast Energy Authority (“RCEA”) for the Fencing Installation for ACV Microgrid (“Project”) shall be in accordance with the following instructions and requirements, which are part of the Contract Documents for this Project.

### **DEADLINE FOR RECEIPT OF BIDS**

Each bid shall be electronically submitted to the Redwood Coast Energy Authority no later than 3:00 p.m. on June 23, 2020. Any bids received after the time stated, regardless of the reason, shall be returned to the bidder. No hardcopy or fax bids will be accepted. **Due to submitting via e-mail, please be sure to allow ample time to account for impacted communication systems and for your proposals to get through our firewall prior to the deadline for bid submission.**

Bid bond original or bid security per Section 5 “Bid Security” below should be mailed to: **RCEA - FENCING FOR ACV MICROGRID PROJECT, Attn: Patricia Terry, 633 3<sup>rd</sup> St. Eureka CA 95501.** Bid security should be received within three days of the bid date. Be sure to note in electronic bid how your bid bond or bid security was sent.

### **SUBMITTAL OF RESPONSES**

**Proposals shall be received electronically before 3:00 p.m. on June 23, 2020**

ALL E-MAILED PROPOSALS SHALL BE TITLED AS FOLLOWS:

FENCING FOR ACV MICROGRID  
Attn: Patricia Terry, Project Manager  
[pterry@redwoodenergy.org](mailto:pterry@redwoodenergy.org)

All bids shall include the following originally signed documents scanned in the following order:

Bid Proposal Form  
Subcontractor List Form  
Workers Compensation Certificate Statement  
Non-Collusion Affidavit  
Bid Bond  
Bidder’s Questionnaire

### **BID OPENING**

Bids will be opened after the bid deadline via ZOOM meeting. To attend the bid opening:

Join ZOOM meeting

You are invited to a Zoom webinar.

When: Jun 23, 2020 03:00 PM Pacific Time (US and Canada)

Topic: Bid Opening for Fence Installation at ACV Microgrid

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/83674824221>

Or iPhone one-tap :

US: +16699006833,,83674824221# or +13462487799,,83674824221#

Or Telephone:

Dial(for higher quality, dial a number based on your current location):

US: +1 669 900 6833 or +1 346 248 7799 or +1 253 215 8782 or +1 312 626 6799 or +1 929 205 6099 or +1 301 715 8592

Webinar ID: 836 7482 4221

International numbers available: <https://us02web.zoom.us/j/kcCUYCEqWt>

1. Mandatory Pre-Proposal Site Visit. A mandatory pre-bid site visit and question forum will be held on **June 11, 2020 at 1:30 p.m.** local time for the purpose of acquainting all prospective bidders with the Contract Documents and the Project site. This will be the bidder's time to look at the installation site and ask any questions about the project. **THIS IS A FEDERALLY CONTROLLED FACILITY AND ALL ATTENDEES WILL NEED PRE-AUTHORIZATION TO ATTEND.** Please be sure to e-mail or phone your request to attend the pre-proposal site visit by 5:00 p.m. 6/10/2020 to Marianne Bithell at [mbithell@redwoodenergy.org](mailto:mbithell@redwoodenergy.org) (707-382-2014). RCEA has determined this is an essential service. All attendees should wear a face mask and practice social distancing requirements as directed by the Humboldt County Orders while the Order(s) are in effect. Information regarding the county order can be found her RCEA has determined this is an essential service. All attendees must wear a face mask and practice social distancing requirements as directed by the Humboldt County Health Officer's Orders while the Order(s) are in effect. Information regarding the Humboldt County Health Officer's Orders can be found here:: <https://humboldt.gov.org/2725/Local-Orders>

The pre-proposal site visit will begin at the following location:

California Redwood Coast – Humboldt County Airport (ACV)  
3561 Boeing Avenue  
McKinleyville, CA 95519

All those wanting to attend the pre-proposal Site Visit must pre-register as per instructions above. **Please meet security escorts on Baadsgaard Avenue** at the green inset gated entrance. Please park off the road on the right shoulder. There will be escorts there to meet you for security reasons since this is FAA regulated property.

2. Requests for Information, Addenda. If any person contemplating submitting a bid for the proposed contract is in doubt as to the true meaning of any part of the Plans, Specifications or other proposed Contract Documents, or finds discrepancies in, or omissions from the Plans or Specifications, such bidder may submit to the Project Manager a written request for an interpretation or correction thereof. The person submitting the request will be responsible for its prompt delivery. A bidder's failure to request clarification or interpretation of an apparent error, inconsistency or ambiguity in the Contract Documents waives that bidder's right to thereafter claim entitlement to additional compensation based upon an ambiguity, inconsistency, or error, which should have been discovered by a reasonably prudent Contractor, subject to the limitations of Public Contract Code §1104. Any questions relative to the bid shall be submitted via e-mail directly to the Project Manager or designee specified

for receipt of bid proposals. These requests shall be submitted via e-mail to Patricia Terry, Project Manager at [pterry@redwoodenergy.org](mailto:pterry@redwoodenergy.org) at least five working days prior to the date the bid is due.

Any interpretation or correction of the proposed Contract Documents prior to bid opening will be made solely in the form of a written Addendum to the Contract Documents and when issued will be on file with RCEA before bids are opened. Interpretations, corrections, or changes in the proposed contract allegedly made in any other manner shall not be binding for any purpose and bidders shall not rely on such interpretations, corrections or changes. In addition, all Addenda will be emailed to each person purchasing Contract Documents, but it shall be bidder's responsibility to make inquiry as to the Addenda issued. All such Addenda shall become part of the Contract documents and all Bidders shall be bound by such Addenda, whether or not received by Bidder.

3. Bid Proposal Forms. All bid proposals shall be made on the form provided by RCEA. All items on the form shall be filled out in ink. Numbers should be stated in figures, and the signatures of all individuals must be in long hand. The completed form should be without interlineations, alterations, or erasures. Blank spaces in the bid shall be properly filled in and the phraseology of the form must not be changed. Be sure to include all the forms in the bid package to be submitted electronically. All Addenda shall be signed by the bidder and submitted together with the bid forms.
4. Execution of Forms. Each bid shall give the full business address of the bidder and must be signed by the bidder or bidder's authorized representative with his or her usual signature. Bids by partnerships must furnish the full names of all partners and must be signed in the partnership name by a general partner with authority to bind the partnership in such matters. Bids by corporations must be signed with the legal name of the corporation, followed by the signature and designation of the president, secretary, or other person authorized to bind the corporation in this matter. The name of each person signing shall also be typed or printed below the signature. When requested by RCEA, satisfactory evidence of the authority of the officer signing on behalf of the corporation or partnership shall be furnished. A bidder's failure to properly sign required forms may result in rejection of the bid. All bids must include the bidder's contractor license number(s) and expiration date(s). Bids must also include contractor's DIR registration number.
5. Bid Security. Bid proposals shall be accompanied by a scanned copy of a certified or cashier's check or bid bond for an amount not less than ten percent (10%) of the bid amount, payable to RCEA. A bid bond shall be secured from an admitted surety company, licensed in the State of California, and satisfactory to RCEA. The bid security shall be given as a guarantee that the bidder will enter into the Contract if awarded the work, and in the case of refusal or failure to enter into the Contract within ten (10) calendar days after notification of the award of the Contract or failure to provide the payment and performance bonds and proof of insurance as required by the Contract Documents, RCEA shall have the right to award the Contract to another bidder and declare the bid security forfeited. RCEA reserves the right to pursue all other remedies in law or equity relating to such a breach including, but not limited to, seeking recovery of damages for breach of contract. Failure to provide bid security, or bid security in



the proper amount, shall result in rejection of the bid. ***Due to the acceptance of electronic bids only, all bidders must send the hard copy of the bid security via regular USPS mail within 3 days of the bid date.*** Mail bid security to: RCEA – Fencing Installation for ACV Microgrid, Attn: Patricia Terry, 633 Third Street Eureka, CA 95501.

6. Withdrawal of Bid Proposals. Bid proposals may be withdrawn by the bidders prior to the time fixed for the opening of bids but may not be withdrawn for a period of sixty (60) days after the opening of bids, except as permitted pursuant to Public Contract Code §5103.
7. Addenda or Bulletins. RCEA reserves the right to issue addenda or bulletins prior to the opening of the bids subject to the limitations of Public Contract Code §4104.5. Any addenda or bulletins issued prior to bid time shall be considered a part of the Contract Documents.
8. Bonds. The Contractor shall be required to file with RCEA performance and payment bonds at one hundred percent (100%) of the contract price, using the bond forms provided with the Contract Documents. The successful bidder shall be required to submit the payment and performance bonds as specified in and using the bond forms included with the Contract Documents. All required bonds shall be based on the maximum total contract price as awarded, including additive alternates, if applicable. Bonds must be received no later than ten (10) days after receipt of Notice of Award.
9. Rejection of Bids and Award of Contract. RCEA reserves the right to waive any irregularities in the bid and reserves the right to reject any and all bids. The Contract will be awarded, if at all, within sixty (60) calendar days after the opening of bids to the lowest responsible and responsive bidder, subject to Board of Director approval. The time for awarding the Contract may be extended by RCEA.
10. Execution of Contract. The successful bidder shall, within ten (10) calendar days of the Notice of Award of the Contract, sign and deliver to RCEA the executed contract along with the bonds and certificates of insurance required by the Contract Documents. In the event the successful bidder fails or refuses to execute the Contract or fails to provide the bonds and certificates as required, RCEA may declare the bidder's bid deposit or bond forfeited as liquidated damages, and may award the work to the next lowest responsible, responsive bidder, or may reject all bids and, in its sole discretion, call for new bids. In all cases, RCEA reserves the right, without any liability, to cancel the award of Contract at any time prior to the full execution of the Contract.
11. Prevailing Wages. This Project is subject to prevailing wage requirements and Contractor and its Subcontractors are required to pay all workers employed for the performance of this Contract no less than the applicable prevailing wage rate for each such worker. Contractor acknowledges that the project is subject to compliance monitoring and enforcement by the California Department of Industrial Relations in accordance with the Labor Code and Section 32 below. The statutory provisions for penalties for failure to comply with state's wage and hour laws will be enforced (Labor Code § 1813). Contractor shall forfeit as penalty to RCEA the sum of up to two hundred dollars (\$200.00) for each calendar day or portion thereof, and for each worker paid less than the prevailing rates under the Contract.

12. Drawings and Specifications. All drawings, specifications and other documents used or prepared during the project shall be the exclusive property of RCEA.
13. Evidence of Responsibility. Upon the request of RCEA, a bidder shall submit promptly to RCEA satisfactory evidence showing the bidder's financial resources, the bidder's experience in the type of work being required by RCEA, the bidder's availability to perform the Contract and any other required evidence of the bidder's qualifications and responsibility to perform the Contract. RCEA may consider such evidence before making its decision to award the Contract. Failure to submit requested evidence may result in rejection of the bid.
14. Taxes. Applicable taxes are expected to be paid by the Contractor and shall be included in the bid prices.
15. Bid Exceptions. Bid exceptions are not allowed. If the Bidder has a comment regarding the bid documents or the scope of work, the Bidder shall submit those comments to RCEA for evaluation at least five working days prior to the opening of the bids. No oral or telephonic modification of any bid submitted will be considered.
16. Discounts. Any discounts which the bidder desires to provide RCEA must be stated clearly on the bid form itself so that RCEA can calculate the net cost of the bid proposal. Offers of discounts or additional services not delineated on the bid form will not be considered by RCEA in the determination of the lowest responsible responsive bidder.
17. Quantities. The quantities shown on the plans and specifications are approximate. RCEA reserves the right to increase or decrease quantities as desired.
18. Prices. Bidders must quote prices F.O.B. unless otherwise noted. Prices should be stated in the units specified and bidders should quote each item separately.
19. Samples. On request, if applicable, samples of the products being bid shall be furnished to RCEA.
20. Special Brand Names/Substitutions. In describing any item, the use of a manufacturer or special brand does not restrict bidding to that manufacturer or special brand, but is intended only to indicate quality and type of item desired, except as provided in §3400 of the Public Contract Code. Substitute products will be considered either prior to or after the award of the Contract in accordance with §3400 and as set forth in the General Conditions, Supplemental Conditions or the Specifications. All data substantiating the proposed substitute as an "equal" item shall be submitted with the written request for substitution. RCEA reserves the right to make all final decisions on product and vendor selection based on the FAA requirements.
21. Container Costs and Delivery. All costs for containers shall be borne by the bidder. All products shall conform to the provisions set forth in the federal, county, state and city laws for their production, handling, processing and labeling. Packages shall be so constructed to ensure safe transportation to the point of delivery.

22. Bid Negotiations. A bid response to any specific item of the bid using terms such as “negotiable,” “will negotiate,” or similar phrases, will be considered non-responsive.
23. Prevailing Law. In the event of any conflict or ambiguity between these instructions and state or federal law or regulations, the latter shall prevail. All equipment to be supplied or services to be performed under the bid proposal shall conform to all applicable requirements of local, state and federal law, including, but not limited to, Labor Code §§1771, 1778 and 1779.
24. Allowances. An “allowance” means an amount included in the bid proposal for work that may or may not be included in the Project, depending on conditions that will become known only after the Project is underway.
25. Subcontractors. Pursuant to the Subletting and Subcontracting Fair Practices Act, Public Contract Code §§4100-4114, every bidder shall, on the enclosed Subcontractor List Form, set forth:
- a. The name and location of the place of business of each Subcontractor who will perform work or labor or render service to the bidder in or about the work or fabricate and install work in an amount in excess of one-half (1/2) of the one percent (1%) of the bidder's total bid. Subcontractors working at the site shall be duly registered with the Department of Industrial Relations at time of bid opening and at all relevant times.
  - b. If the bidder fails to specify a Subcontractor for any portion of the work to be performed under the Contract in excess of one-half (1/2) of one percent (1%) of the bidder's total bid, bidder agrees that bidder is fully qualified to and shall perform that portion of the work. The successful bidder shall not, without the written consent of RCEA or compliance with Public Contract Code §§4100 - 4114, either:
    - 1) Substitute any person as Subcontractor in place of the Subcontractor designated in the original bid;
    - 2) Permit any subcontract to be voluntarily assigned or transferred or allow the work to be performed by anyone other than the original Subcontractor listed in the bid; or
    - 3) Sublet or subcontract any portion of the work in excess of one-half (1/2) of one percent (1%) of the total bid as to which the bidder's original bid did not designate a Subcontractor.
26. Examination of Contract Documents and Work Site. Before submitting a bid proposal, all bidders shall carefully examine the Contract Documents, including the plans and specifications, shall visit the site of the proposed work, and shall fully inform themselves of all conditions in and about the work site, as well as applicable federal, state and local laws and regulations that may affect the work. No bidder shall visit the site without prior authorization of RCEA. Bidders shall contact the RCEA Project Manager or designee for coordination of site visits.

27. Form and Approval of Contract. The Contract Documents must be approved by the Governing Board of RCEA and its legal counsel. The bidder selected by RCEA shall execute the contract provided by RCEA.
28. Licenses and Permits. Each bidder, and its Subcontractors, if any, shall at all times possess all appropriate and required licenses or other permits to perform the work as identified in the Contract Documents. Upon request, each bidder shall furnish RCEA with evidence demonstrating possession of the required licenses or permits.
29. Denial of Right to Bid. Contractors or Subcontractors who have violated state law governing public works shall be denied the right to bid on this public works contract pursuant to Labor Code §1777.7.
30. Bidders Interested in More Than One Bid. No person, firm, or corporation shall make, or file, or be interested in more than one bid. However, a person, firm, or corporation that has submitted a sub-proposal to a bidder, or that has quoted prices of materials to a bidder, is not thereby disqualified from submitting a sub-proposal or quoting prices to other bidders or from submitting a prime proposal.
31. Contractor's State License Board. Contractors and Subcontractors are required by law to be licensed and regulated by the California Contractors' License Board.
32. Labor Compliance. This project is ☒ / is not ☐ subject to compliance monitoring and enforcement by the California Department of Industrial Relations pursuant to Labor Code sections 1725.5 and 1770 *et seq.* In accordance with Labor Code sections 1725.5 and 1770 *et seq.*, all bidders, contractors and subcontractors working at the site shall be duly registered with the Department of Industrial Relations at time of bid opening and at all relevant times. Proof of registration shall be provided as to all such contractors prior to the commencement of any work. Contractor will be required to maintain records and release them to RCEA and Project Manager for the project record.
33. Additive and Deductive Items: Method of Determining Lowest Bid. Pursuant to Public Contract Code §20103.8, if the bid solicitation includes additive and/or deductive items, the checked [X] method shall be used to determine the lowest bid: *[check one]*
- ☒ (a) The lowest bid shall be the lowest bid price on the base contract without consideration of the prices on the additive or deductive items.
- ☐ (b) The lowest bid shall be the lowest total of the bid prices on the base contract and those additive or deductive items that were specifically identified in the bid solicitation or Bid Proposal Form as being used for the purpose of determining the lowest bid price.
- ☐ (c) The lowest bid shall be the lowest total of the bid prices on the base contract and those additive or deductive items taken in order from a specifically identified list of those items that, when in the solicitation, and added to, or subtracted from, the base contract, are less than, or equal to, a funding amount publicly disclosed by RCEA before the first bid is opened.
- ☐ (d) The lowest bid shall be determined in a manner that prevents any information that

would identify any of the bidders or the proposed Subcontractors or suppliers from being revealed to the public entity before the ranking of all bidders from lowest to highest has been determined.

If no method is checked, sub-paragraph (a) shall be used to determine the lowest bid.

Notwithstanding the method used by RCEA to determine the lowest responsible bidder, RCEA retains the right to add to or deduct from the Contract any of the items included in the bid solicitation.

34. Bid Protest. Any bid protest must be in writing and received by RCEA Office before 5:00 p.m. no later than three (3) working days following bid opening and shall comply with the following requirements:
- a. The bid protest must contain a complete statement of the basis for the protest and all supporting documentation.
  - b. The party filing the protest must have actually submitted a bid for the Project. A Subcontractor of a bidder submitting a bid for the Project may not submit a bid protest. A bidder may not rely on the bid protest submitted by another bidder but must timely pursue its own protest.
  - c. The protest must refer to the specific portion or portions of the Contract Documents upon which the protest is based.
  - d. The protest must include the name, address and telephone number of the person representing the protesting bidder.
  - e. The bidder filing the protest must concurrently transmit a copy of the bid protest and all supporting documentation to all other bidders with a direct financial interest which may be affected by the outcome of the protest, including all other bidders who appear to have a reasonable prospect of receiving an award depending upon the outcome of the protest.
  - f. The bidder whose bid has been protested may submit a written response to the bid protest. Such response shall be submitted to RCEA before 5 p.m. no later than two (2) working days after the deadline for submission of the bid protest or receipt of the bid protest, whichever is sooner, and shall include all supporting documentation. Such response shall also be transmitted concurrently to the protesting bidder and to all other bidders who appear to have a reasonable prospect of receiving an award depending upon the outcome of the protest.
  - g. The procedure and time limits set forth in this section are mandatory and are the bidder's sole and exclusive remedy in the event of bid protest. The bidder's failure to comply with these procedures shall constitute a waiver of any right to further pursue the bid protest, including filing a Government Code claim or legal proceedings.
  - h. If RCEA determines that a protest is frivolous, the protesting bidder may be determined to be non-responsible and that bidder may be determined to be ineligible for future contract awards by RCEA.

35. Limitations on Project Commencement. This Project is subject to approval by and except as stated in a Limited Notice to Proceed, Work may not commence on the Project until the occurrence of both of the following:

- a. Approval by the Federal Aviation Administration (FAA) of the Project; and
- b. Entry into a lease agreement between the County of Humboldt and the RCEA.

Bidders understand and acknowledge that an award of contract and entering into a contract shall be contingent on this occurrence without liability or recourse to RCEA.

-- END --

## BID PROPOSAL FORM

Board of Directors

Redwood Coast Energy Authority

Dear Members of the Board of Directors:

The undersigned, doing business under the name of \_\_\_\_\_,

\_\_\_\_\_ , having carefully examined the location of the proposed work, the local conditions of the place where the work is to be done, the Notice Inviting Bids, the General Conditions, the Instructions to Bidders, the Plans and Specifications, and all other Contract Documents for the proposed Fencing Installation for ACV Microgrid ("Project"), and having accurately completed the Bidder's Questionnaire, proposes to perform all work and activities in accordance with the Contract Documents, including all of its component parts, and to furnish all required labor, materials, equipment, transportation and services required for the construction of the Project in strict conformity with the Contract Documents, including the Plans and Specifications, as follows:

BASE BID:

For the sum of \_\_\_\_\_

\_\_\_\_\_ Dollars (\$ \_\_\_\_\_).

The undersigned has checked carefully all the above figures and understands that RCEA is not responsible for any errors or omissions on the part of the undersigned in making this bid.

Enclosed find certified or cashier's check no. \_\_\_\_\_ of the \_\_\_\_\_ Bank for \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) or Bidder's Bond of the \_\_\_\_\_ surety company in an amount of not less than ten percent (10%) of the entire bid. The undersigned further agrees, on the acceptance of this proposal, to execute the Contract and provide the required bonds and insurance and that in case of default in executing these documents within the time fixed by the Contract Documents, the proceeds of the check or bond accompanying this bid shall be forfeited and shall become the property of RCEA.

Contractor agrees to commence the work within the time specified in the Notice to Proceed. It is understood that this bid is based upon completing the work within the number of calendar days specified in the Contract Documents.

ADDENDA:

Receipt of the following addenda is hereby acknowledged:

Addendum # \_\_\_\_\_ Dated: \_\_\_\_\_ Addendum # \_\_\_\_\_ Dated: \_\_\_\_\_

Addendum # \_\_\_\_\_ Dated: \_\_\_\_\_ Addendum # \_\_\_\_\_ Dated: \_\_\_\_\_

Addendum # \_\_\_\_\_ Dated: \_\_\_\_\_ Addendum # \_\_\_\_\_ Dated: \_\_\_\_\_

Respectfully submitted,

Company: \_\_\_\_\_

Address: \_\_\_\_\_

By: \_\_\_\_\_

*(Please Print or Type)*

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

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

Telephone: \_\_\_\_\_

Contractor's License No: \_\_\_\_\_ Expiration Date \_\_\_\_\_

DIR Registration No. \_\_\_\_\_

Required Attachments:      Subcontractor List Form  
Workers' Compensation Certificate  
Non-Collusion Affidavit  
Bid Bond (or Cashier's or Certified Check)  
Bidders' Questionnaire



## SUBCONTRACTOR LIST FORM

Each bidder shall list below the name and location of place of business for each Subcontractor who will perform a portion of the Contract work in an amount in excess of 1/2 of 1 percent of the total contract price. The nature of the work to be subcontracted shall also be described. Per SB96 Public Contract Code 4104, please list the DIR registration number for each Subcontractor.

DESCRIPTION OF WORK	NAME	LOCATION	LICENSE # & DIR #

## WORKERS' COMPENSATION CERTIFICATE

Labor Code §3700 in relevant part provides:

"Every employer except the State shall secure the payment of compensation in one or more of the following ways:

- (a) By being insured against liability to pay compensation in one or more insurers duly authorized to write compensation insurance in this State.
- (b) By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his employees."

I am aware of the provisions of §3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of the work of this Contract and will require all Subcontractors to do the same.

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Contractor:

By: \_\_\_\_\_

*In accordance with Article 5 (commencing at §1860), Chapter 1, Part 7, Division 2 of the Labor Code, the above certificate must be signed and filed with the awarding body prior to performing any work under this Contract.*

## NON-COLLUSION AFFIDAVIT

*To be executed by the bidder, notarized, and submitted with the bid.*

STATE OF CALIFORNIA )  
 ) SS  
COUNTY OF )

\_\_\_\_\_, declares and says that he or she is \_\_\_\_\_ of \_\_\_\_\_, the party making the foregoing bid, and affirms that the bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid is genuine and not collusive or sham; that the bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the bid are true and correct; and, further, that the bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.

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

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

\_\_\_\_\_ Signature

## **BID BOND**

We, the Contractor, \_\_\_\_\_ as principal (“Principal”), and \_\_\_\_\_, as surety (“Surety”), are firmly bound unto Redwood Coast Energy Authority (“RCEA”) in the penal sum of ten percent (10%) of the total amount of the bid of the Principal submitted to RCEA for the work described below for the payment of which sum in lawful money of the United States, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by this agreement.

Whereas, the Principal has submitted the accompanying bid (“Bid”) dated \_\_\_\_\_, for the following project (“Project”):

Fencing Installation for ACV Microgrid.

Now, therefore, if the Principal does not withdraw its Bid within the period specified, and if the Principal is awarded the Contract and within the period specified fails to enter into a written contract with RCEA, in accordance with the Bid as accepted, or fails to provide the proof of required insurance, the performance bond and/or the payment bond by an admitted surety within the time required, or in the event of unauthorized withdrawal of the Bid, if the Principal pays the RCEA the difference between the amount specified in the Bid and the amount for which RCEA may otherwise procure the required work and/or supplies, if the latter amount is in excess of the former, together with all related costs incurred by RCEA, then the above obligation shall be void and of no effect. Otherwise, the Principal and Surety shall pay to RCEA the penal sum described above as liquidated damages.

Surety, for value received, hereby agrees that no change, extension of time, alteration or addition to the term of the Contract or the call for bids, or to the work to be performed thereunder, or the Specifications accompanying the same, shall in any way affect its obligation under this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition.

In witness whereof the above-bound parties have executed this instrument under their several seals this \_\_\_\_\_ day of \_\_\_\_\_, 2020, the name and corporate seal of each corporate Party being hereunder affixed, and these presents duly signed by its undersigned representative, pursuant to the authority of its governing body.

(Corporate Seal)

\_\_\_\_\_  
Principal/Contractor

By \_\_\_\_\_

Title: \_\_\_\_\_

(Corporate Seal)

\_\_\_\_\_  
Surety

Attach Attorney-In-Fact Certificate

By \_\_\_\_\_

\_\_\_\_\_  
Title

*To be signed by Principal and Surety and Acknowledgment and Notary Seal to be attached.*

## BIDDER'S QUESTIONNAIRE

for

Fencing Installation for ACV Microgrid

TO THE BIDDER:

In making its award, the Board of Directors for RCEA will take into consideration the Bidder's experience, financial responsibility and capability. The following questionnaire is a part of the bid. Any bid received without this completed questionnaire may be rejected as nonresponsive. The Board will use, but will not be limited to, the information provided herein for evaluating the qualifications and responsibility of the bidder and the bidder's organization to carry out satisfactorily the terms of the Contract Document. The questionnaire must be filled out accurately and completely and submitted with the bid. Any errors, omissions or misrepresentation of information may be considered as a basis for the rejection of the bid and may be grounds for the termination of any contract executed as a result of the bid. Please fill in all questions or mark "not applicable".

A. Description of Bidder's Organization

1. Firm Name \_\_\_\_\_

2. Address \_\_\_\_\_

3. Telephone Number \_\_\_\_\_

4. Type of Organization

a. Corporation? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, list the officers and positions, and the State in which incorporated.

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If the Bidder corporation is a subsidiary, give name and address of parent corporation.

b. Partnership? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, list partner names and addresses

General Partners:

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Limited Partners:

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c. Individual Proprietorship? Yes \_\_\_\_ No \_\_\_\_

If yes, list name and address of proprietor:

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B. Nature of Operations

1. How long have you been engaged in the contracting business under your present business name? \_\_\_\_\_
2. How many years of experience does your business have in construction work similar to that called for under this bid? \_\_\_\_\_
3. Have you now contracts, or have you ever contracted, to provide construction for any government agency or special district in the State of California? Yes \_\_\_\_ No \_\_\_\_
  - a. If "yes," on a separate attached sheet, provide the following information for all construction projects you have had with government agencies or special districts during the last four (4) years:
    1. Year contract awarded
    2. Type of work
    3. Contract completion time called for/actual completion time
    4. Contract price
    5. For whom performed, including person to call for a reference and telephone number.
    6. Location of work
    7. Number of stop notices file.
    8. For each contract, list any lawsuits filed relating to that contract in which you were a defendant or plaintiff.
    9. Amount of liquidated damages assessed.

- b. On a separate attached sheet, provide the following information for all construction contracts of a similar nature as called for in this bid that you have had with other entities during the last four (4) years:
1. Year contract awarded
  2. Type of work
  3. Contract completion time called for/actual completion time
  4. Contract price
  5. For whom performed, including person to call for reference and phone number
  6. Location of work
  7. Number of stop notices filed
  8. For each contract list any lawsuits filed relating to that contract in which you were a defendant or plaintiff
  9. Amount of liquidated damages assessed.
- c. For each construction contract that you have failed to complete within the contract time in the last four years please state the reasons for the untimely performance.

C. Past Experience

1. If any of the business endeavors referred to above are no longer operating, or you are no longer associated with them, please give brief details:

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2. The following surety companies may be contacted as references as to the financial responsibility and general reliability of the bidder:

<u>Surety Name</u>	<u>Contact Person</u>	<u>Phone Number</u>
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I certify under penalty of perjury that the foregoing is true and correct. Executed at \_\_\_\_\_, California, on \_\_\_\_\_, 2020.

Signature of Bidder \_\_\_\_\_

Name (*print*) \_\_\_\_\_

Company \_\_\_\_\_

## **9. CONTRACT DOCUMENTS**

## CONTRACT AGREEMENT

THIS AGREEMENT, MADE THIS \_\_\_ day of \_\_\_\_\_, 2020, by and between Redwood Coast Energy Authority, hereinafter called "RCEA," and \_\_\_\_\_, doing business as (an individual), or (a partnership), or (a corporation), hereinafter called "Contractor."

WITNESSETH: That for and in consideration of the payments and agreements hereinafter mentioned:

1. The Contractor will commence and complete the construction of the **Fencing Installation for ACV Microgrid**.
2. The Contractor will furnish all the material, supplies, tools, equipment, labor and other services necessary for the construction and completion of the project described herein.
3. The Contractor will commence the Work required by the Contract Documents on the date indicated on the Notice to Proceed and will complete the same within the time provided in Section B-34 of the General Conditions, unless the period for completion is extended otherwise by the Contract Documents.
4. The Contractor agrees to perform all the Work described in the Contract Documents and comply with terms therein for the sum shown in the Bid Schedule and as amended by approved change order.
5. The Contract Documents consist of the Bidding Requirements, Contract Forms, Conditions of the Contract, any Addendums, the Specifications, and the Plans, including all modifications thereof incorporated into the documents before their execution, and including all other requirements incorporated by specific reference thereto. These form the Contract.
6. RCEA will pay to the Contractor in the manner and at such times as set forth in the General Conditions such amounts as required by the Contract Documents, not to exceed \$ \_\_\_\_\_.
7. This Agreement shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors, and assigns.
8. The general prevailing rates of per diem wages shall be paid by the Contractor.
9. This Contract is subject to the following conditions precedent:
  - a) Project approval by the Federal Aviation Administration (FAA);
  - b) Entry of a lease agreement between RCEA and the County of Humboldt concerning the property on which the Project will occur.

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials, this Agreement in quadruplicate, each of which shall be deemed an original on the date first above written.

REDWOOD COAST ENERGY AUTHORITY  
Owner

ATTEST:

(seal)

By \_\_\_\_\_  
Matthew Marshall, Executive Director  
As authorized by  
Redwood Coast Energy Authority

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Contractor

By \_\_\_\_\_

License No.: \_\_\_\_\_

Expiration: \_\_\_\_\_

DIR Registration No.: \_\_\_\_\_

(Seal if Corporation)

## **GENERAL CONDITIONS OF THE CONTRACT**

## SECTION A: DEFINITIONS AND TERMS

### *A-1 General*

Wherever the following abbreviations and terms, or pronouns in place of them, are used in these Conditions and other Contract Documents of which these Conditions are a part, the intent and meaning shall be interpreted as provided below.

### *A-2 Abbreviations*

The following abbreviations may be used in the Contract Documents:

AGC	Associated General Contractors
AI	The Asphalt Institute
AIA	American Institute of Engineers
ANSI	American National Standards Institute, Inc.
APWA	American Public Works Association
ASCE	American Society of Civil Engineers
ASME	American Society of Mechanical Engineers
ASTM	American Society for Testing and Materials
FS	Federal Specification
ICBO	International Conference of Building Officials
IEEE	The Institute of Electrical and Electronics Engineers
IES	Illuminating Engineering Society
NBS	National Buildings Standards
NEC	National Electrical Code
NEMA	National Electrical Manufacturers Association
NFPA	National Fire Protection Association
OSHA	Occupational Safety and Health Act of 1970
SSPWC	Standard Specifications for Public Works Construction
UBC	Uniform Building Code
USPHS	United States Public Health Service
UL	Underwriter's Laboratory
UMC	Uniform Mechanical Code
UPC	Uniform Plumbing Code
USAS	The United States of America Standard Institute
USBR	United States Bureau of Reclamation

"Bureau" - United States Bureau of Reclamation

"State" - State of California

"State Standard Specifications" - Standard Specifications issued by the State of California Business and Transportation Agency, Department of Transportation, dated May 2006, and as amended, unless a specific edition is referenced.

### A-3 Definitions

- (a) Acceptance - The formal written acceptance by RCEA of the entire Contract which has been completed in all respects in accordance with the Specifications and any approved modifications.
- (b) Addenda - Written or graphic instruments issued prior to the execution of the Agreement which modify or interpret the Contract Documents, Drawings and Specifications by additions, deletions, clarifications or corrections.
- (c) As Approved - The words "as approved" unless otherwise qualified, shall be understood to be followed by the words "by Owner."
- (d) Bid - The offer of the bidder for the work when made out and submitted on the prescribed bid form, properly signed and guaranteed. A Bid is also known as a Proposal.
- (e) definition space not used
- (f) Bidder - Any individual, firm, partnership or corporation submitting a bid for the work contemplated and acting directly or through a duly authorized representative.
- (g) Change Orders - A written order to the Contractor authorizing an addition, deletion, or revision in the work within the general scope of the Contract Documents or authorizing adjustment in the Contract price or Contract time.
- (h) Definition space not used.
- (i) Claim - A separate demand by the Contractor for (i) a time extension, (ii) payment of money or damages arising from work done by or on behalf of the Contractor pursuant to the Contract for a public work and payment of which is not otherwise expressly provided for or the claimant is not otherwise entitled to, or (iii) an amount the payment of which is disputed by RCEA.
- (j) Contract - The written agreement covering the performance of the work and the furnishing of labor, materials, tools and equipment in the construction of the work. The Contract shall include all Contract Documents and supplemental agreements amending or extending the work contemplated which may be required to complete the work in a substantial and acceptable manner. Supplemental agreements are written agreements covering alterations, amendments or extensions to the Contract and include Addenda and Contract Change Orders.
- (k) Contract Documents - The Contract Documents are any or all the documents listed in Item 5 of the Contract Agreement.
- (l) Contract Price - Total monies payable to the Contractor under the terms and conditions of the Contract Documents.
- (m) Contract Time - The numbers of days stated in the Contract Documents for the completion of work.

(n) Contractor - The person or persons, firm, partnership or corporation or other entity who has entered the Contract with RCEA to perform the work.

(o) Contract Drawings - "Contract Drawings" or "drawings" means and includes (i) all drawings which have been prepared on behalf of RCEA and which are included in the Contract Documents and all modifying drawings issued by addenda thereto; (ii) all drawings submitted pursuant to the terms of the Contract by the Contractor with their proposal and by the Contractor to RCEA during the progress of the work when accepted by RCEA. Except where a specific type of drawing is indicated, the terms "Drawings" and "Plans" are used interchangeably throughout the Contract Documents and the Plans are Drawings as defined above.

(q) County - County of Humboldt, California.

(r) Date of Execution of the Contract - The date on which the Contract is signed by RCEA's authorized representative.

(s) Datum - The figures given in the Specifications or upon the drawings after the word "Elevation" or an abbreviation of it, shall mean NVGDS datum, unless noted otherwise.

(t) Days - Unless otherwise designated, days as used in the Contract Documents shall mean calendar days.

(u) Engineer of Record - Wherever in these documents the word "Engineer" appears, it shall be understood to reference the engineer of the plans shall be referring to David Carter of Schatz Energy Research Center (SERC).

(v) Field Order - A written order effecting a change in the Work not involving an adjustment in the Contract Price or an extension of Contract Time, issued by RCEA to the Contractor during construction.

(w) Final Completion: Final Completion is achieved when the Contractor has fully completed all Contract Document requirements, including, but not limited to, all final punch list items and project closeout, to RCEA's satisfaction.

(x) Force Majeure Event - Means any act or circumstance beyond the reasonable control of the Party seeking relief, including acts of God, flood, fire, earthquake, climatic conditions at the Site that are unusual for the time of year, explosion, action or inaction of a public authority (including delays caused by permitting authorities), war, terrorist threats or acts or other civil unrest, piracy, lock-outs, strikes or other labor disputes, restraints or delays affecting carriers, and shall include the inability or delay in obtaining supplies of adequate or suitable materials where caused by a Force Majeure Event. However, financial cost alone or as the principal factor shall not constitute grounds for a claim of force majeure.

(y) Install - "Install" wherever and in whatever manner used shall mean the installation, complete in place of an item.



(z) Limited Notice to Proceed - means pre-construction services to be further described in the LNTP.

(aa) Notice of Award - The written notice of the acceptance of the Bid from RCEA to the successful Bidder.

(bb) Notice to Proceed - Written communication issued by RCEA to the Contractor authorizing him to proceed with the work and establishing the date of commencement of the work.

(cc) Or Equal - The terms "or equal" or "approved equal" shall be understood to indicate that the "equal" product be the same or better than the product named in function, performance, reliability, quality and general configuration. Determination of equality in reference to the project design requirement will be made by RCEA.

(dd) RCEA Project Representative - The authorized representative of RCEA who is assigned to the project site or any part thereof. The Project Representative will have final authority as regards to contract administration, field inspection, and related items.

(ee) Plans or Specification Drawings - The term "Plans or Specification Drawings" refers to the official Plans, profiles, cross sections, elevations, details, and other working drawings and supplementary drawings, or reproductions thereof, signed by the engineer, which show the location, character, dimensions, and details of the work to be performed. Plans may either be bound in the same book as the balance of the Contract Documents or bound in separate sets, and are a part of the Contract Documents, regardless of the method of binding.

(ff) Project - The undertaking performed as provided by the Contract Documents.

(gg) Provide - "Provide" wherever and in whatever manner used shall be understood to mean furnish and install.

(hh) Project Manager – Representative of RCEA to manage project.

(ii) RCEA - REDWOOD COAST ENERGY AUTHORITY, may also be referred to as RCEA.

(jj) Service of Notice - Any notice from one party to the other under the Contract shall be in writing and shall be dated and signed by the party giving such notice or by a duly authorized representative thereof. Any such notice shall not be effective for any purpose whatsoever unless service in the following manner:

(i) If the notice is given to RCEA by personal delivery thereof, RCEA's Project Representative or by depositing the notice in the U.S. mail, enclosed in a sealed envelope addressed to RCEA, 633 3<sup>rd</sup> Street, Eureka California 95501 postage prepaid, by certified mail return receipt requested.

(ii) If the notice is given to the Contractor, by personal delivery to the Contractor or its duly authorized representative at the project site or by depositing in the U.S. mail, enclosed in a sealed envelope address to the Contractor on the Contract Form, postage prepaid, by certified mail, return receipt request.

(iii) If the notice is given to the surety or any other person, by personal delivery to such surety or other person by personal delivery to such surety or other person by depositing in the U.S. mail, enclosed in a sealed envelope, addressed to the surety or other person at the address of such surety or other person last communicated to the party giving the notice, postage prepaid, by certified mail return receipt requested.

(kk) Shall or Will – “Shall,” or “Will,” whenever used to stipulate anything, means shall or will be done or be performed by either the Contractor or RCEA and means that the Contractor or RCEA has thereby entered into a covenant with the other party to do or perform the same.

(ll) Shop Drawing - All drawings, diagrams, illustrations, brochures, schedules and other data which are prepared by the Contractor, a subcontractor, manufacturer, supplier or distributor, which illustrate how specific portions of the Work shall be fabricated or installed.

(mm) Shown – “Shown” “indicated” “detailed” and words of like import, wherever and in whatever manner used, with or without reference to the drawings, means shown, indicated or detailed on the drawings or plans.

(nn) Specifications - A part of the Contract Documents consisting of written descriptions of a technical nature of materials, equipment, construction systems, standards and workmanship, including the General Conditions and Supplemental General Conditions.

(oo) Specified – “Specified” “described” or “noted” wherever and in whatever manner used, means as specified, described or noted in the Contract Documents.

(pp) Subcontractors - The term "Subcontractor", as employed herein, includes only those having a direct contract with the Contractor and it includes one who furnishes material worked to a special design according to the plans or specifications of this work, but does not include one who merely furnishes material not so worked and would be considered a supplier only.

(qq) Substantial Completion - That date as certified by RCEA when the construction of the Project or a specified part thereof is sufficiently completed, in accordance with the Contract Documents, so that the Project or specified part can be utilized for the purposes for which it is intended.

RCEA may, at its sole discretion, issue a written notice of substantial completion for the purpose of establishing the starting date for specific equipment guarantees, and to establish the date that RCEA will assume the responsibility for the cost of operating such equipment. Said notice shall not be considered as final acceptance of any portion of the work or relieve the Contractor from completing the remaining work within the specified time and in full compliance with the Contract Documents.

(rr) Sufficient – “Sufficient,” “necessary,” “proper,” “acceptable,” “satisfactory,” “desirable,” and words of like import, wherever and in whatever manner used, with or without reference to RCEA, means sufficient, necessary, proper, acceptable, satisfactory or desirable in the judgment of RCEA.

(ss) Supplementary Conditions - Modifications to General Conditions required by a Federal Agency for participation in the PROJECT and approved by the Agency in writing prior to inclusion in the Contract Documents, or such requirements that may be imposed by applicable State laws. References to “Supplemental General Conditions” in the General Conditions and elsewhere in the Contract Documents shall be construed to read “Supplementary Conditions”

(tt) Supplier - Any person or organization who supplies materials or equipment for the Work, including that fabricated to a special design, but who does not perform labor at the site.

(uu) Time Limits - All time limits stated in the Contract Documents are of the essence of the Contract.

(vv) Work - All the work specified, indicated, shown or contemplated in the Contract to construct the improvements, including all alterations, amendments or extensions thereto made by Contract Change Order or other written orders of RCEA.

(ww) Written Notice - "Written Notice" shall be deemed to have been duly served when delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended, or if delivered at or sent by registered mail to the last business address known to it who gives the notice.

(xx) Whenever in the Specifications or upon the drawings the words DIRECTED, REQUIRED, PERMITTED, ORDERED, DESIGNATED, PRESCRIBED, or words of like import are used, it shall be understood that the direction, requirement, permission, order, designation or prescription of RCEA is intended, and similarly the words APPROVED, ACCEPTABLE, SATISFACTORY, or words of like import, shall mean approved or acceptable to, or satisfactory to RCEA, unless otherwise expressly stated.

## SECTION B: GENERAL CONDITIONS

### ARTICLE I. SCOPE OF WORK

#### ***B-1 Intent of Contract Documents***

The intent of the Contract Documents is to prescribe the details for the construction and completion of the work which the Contractor undertakes to perform in accordance with the terms of the Contract. Where the Specifications and Plans describe portions of the Work in general terms, but not in complete detail, it is understood that only the best general practice is to prevail and that only materials and workmanship of the first quality are to be used. Unless otherwise specified, the Contractor shall furnish all labor, materials, tools, equipment and incidentals and do all the Work involved in performing the Contract in a satisfactory and workmanlike manner, ready for use, occupancy or operation by RCEA.

The technical provisions are presented in sections for convenience. However, this presentation does not necessarily delineate trades or limits of responsibility. All sections of the Plans are interdependent and applicable to the Project as a whole.

The Contract Documents are complementary, and what is called for in anyone shall be as binding as if called for in all.

Any Work shown on one Contract Drawing shall be construed to be shown in all Contract Drawings and the Contractor will coordinate the Work and the Contract Drawings. If any portion of the Contract Documents shall be in conflict with any other portion, the various documents comprising the Contract Documents shall govern in the following order of precedence: RCEA-Contractor Contract; the Bid; any Addendums, any Supplementary or Special Conditions; the condition of all permits; Instructions to Bidders; the General Conditions; the Drawings. Detail Drawings take precedence over general Drawings. As between schedules and information given on Drawings, the Schedules shall govern. As between figures given on Drawings and the scales measurements, the figures shall govern. As between large-scale Drawings and small-scale Drawings, the larger scale shall govern. Any conflict or inconsistency between or in the drawings shall be submitted to RCEA's Project Representative in writing. Work done by the Contractor after their discovery of such discrepancies, inconsistencies or ambiguities shall be done at the Contractor's own risk.

#### ***B-2 Contractor's Understanding***

It is understood and agreed that the Contractor has, by careful examination, satisfied itself as to the nature and location of the Work, the conformation of the ground, the character, quality and quantity of the materials to be encountered, the character of equipment and facilities needed preliminary to and during the prosecution of the Work, all permit conditions and requirements, the general and local conditions, and all other matters which can in any way affect the Work under this Contract. No verbal agreement or conversation with any officer, agent or employee of RCEA, either before or after the execution of this Contract, shall affect or modify any of the terms or obligations herein contained.

### ***B-3 Changes in the Work***

RCEA may, at any time, by written order make changes in the Work including but not limited to: (a) changes in the drawings; (b) changes in the sequence, method or manner of performance of the work; (c) changes in RCEA-furnished facilities, equipment, materials, services or site; or (d) changes directing acceleration of the work. If such changes cause an increase or decrease in the Contractor's cost of, or time required for, performance of the Contract an equitable adjustment will be made, and the Contract modified in writing accordingly.

Such modification will be in the form of a Contract Change Order which will set forth the work to be done or the method by which the change and cost adjustment, if any, will be determined, and the time of completion of the work.

The compensation to be paid for any extra Work or change shall be determined in one or more of the following ways or at RCEA's sole election:

- A. By unit prices previously approved (unit prices previously approved shall be used in all cases for similar units unless mutually agreed that for some reason they are not applicable);
- B. By estimate and acceptance of an agreed upon lump sum; or
- C. On a time and materials basis involving the actual necessary expenses and other services necessary to complete the Work. In addition, there shall be added an amount to be agreed upon but not to exceed ten (10) percent of the actual necessary expense to cover the cost of general overhead, general superintendence, other expenses and profit. In the events that items (a) and (b) above are not applicable, then this latter method (c) shall be used. Markup by subcontractors on their work shall not exceed fifteen percent. Contractor's markup on subcontractor's work shall not exceed five (5) percent.

The Contractor shall keep full and complete records of the actual cost of such Work in the form and manner prescribed by RCEA and shall permit RCEA to have access to such records as may be necessary to assist in the determination of the compensation payable for such Work.

RCEA also may at any time by issuing a Field Order make changes in the details of the Work. The Contractor shall proceed with the performance of any change in the Work so ordered by RCEA unless the Contractor believes that such Field Order entitles it to a change in the Contract Price or Time, or both in which event the Contractor shall give RCEA written notice thereof within seven (7) days after the receipt of the ordered change. The Contractor shall not execute such changes pending the receipt of an executed change order or further instruction from RCEA.

If the Contractor is delayed in completing by reason of any change made pursuant to this section, the time for completion of the work shall be extended by change order for a period agreed to, commensurate with such delay. The Contractor shall not be subjected to any claim for liquidated damages for this period of time, but the Contractor shall have no claim for any other compensation for any such delay.

#### ***B-4 Procedures and Allowable Costs on Changes***

(a) All changes which affect the cost or time of the construction of the project must be authorized by means of a Change Order. The Change Order will include extra Work, Work for which quantities have been altered from those shown in the bidding schedule, as well as decreases or increases in the quantities of installed units which are different than those shown in the bidding schedule because of final measurements. All changes should be recorded on a Change Order as they occur. Each Change Order must contain complete and detailed justification for all items addressed by the Change Order.

(b) If the change in or addition to the Work will result in an increase in the contract sum, RCEA shall have the right to require the performance thereof in any of the following ways, at RCEA's sole election:

(i) By unit prices previously approved (unit prices previously approved shall be used in all cases for similar units unless mutually agreed that for some reason they are not applicable);

(ii) By estimate and acceptance of an agreed upon lump sum; or

(iii) On a time and materials basis involving the actual necessary expenses and other services necessary to complete the Work. In addition, there shall be added an amount to be agreed upon but not to exceed ten (10) percent of the actual necessary expense to cover the cost of general overhead, general superintendence, other expenses and profit. In the events that items (a) and (b) above are not applicable, then this latter method (c) shall be used. Markup by subcontractors on their Work shall not exceed fifteen percent (15%). Contractor's markup on subcontractor's work shall not exceed five percent (5%).

(c) If RCEA elects to have the Change in the Work performed on a lump sum basis, such election shall be based on a lump sum proposal which shall be submitted by the contractor within ten (10) days of RCEA's request therefore. Request for a lump sum proposal shall not be deemed an election to have the Work performed on a lump sum basis. The Contractor's proposal shall be itemized and segregated by labor and materials for the various components of the change (no aggregate labor total will be acceptable) and shall be accompanied by signed proposals of any subcontractors which will perform any portion of the change, and of any persons who will furnish materials or equipment for incorporation therein. The proposal shall also include the contractor's estimate of the time required to perform said changes or additional work.

The portion of the proposal relating to labor, whether by the Contractor's forces or the forces of any of its Subcontractors, may include reasonably anticipated gross wages of Job Site labor, including foremen, who will be directly involved in the Change in the Work (for such time as they will be so involved), plus payroll costs (including premium costs of overtime labor, if overtime is anticipated, social security, Federal or State unemployment insurance taxes and fringe benefits required by collective bargaining agreements entered into by the Contractor or any such Subcontractor in connection with such labor) and up to fifteen percent (15%) of such anticipated gross wages, but not payroll costs as overhead and profit for the Contractor or any such Subcontractor, as applicable (such overhead and profit to include all supervision except foremen.)

The portion of the proposal relating to materials may include the reasonably anticipated direct costs to the Contractor or to any of its Subcontractors of materials to be purchased for incorporation in the Change in the Work, plus transportation and applicable sales or use taxes and up to fifteen percent (15%) of such anticipated gross wages, but not payroll costs, as overhead and profit for the Contractor or any such Subcontractor, as applicable (such overhead and profit to include all supervision except foremen.)

The portion of the proposal relating to materials may include the reasonably anticipated direct costs to the Contractor or to any of its Subcontractors of materials to be purchased for incorporation in the Change in the Work, plus transportation and applicable sales or use taxes and up to fifteen percent (15%) of said direct material costs as overhead and profit for the Contractor or any such subcontractor (such overhead and profit to include all small tools), and may further include the Contractor's and any of its Subcontractors' reasonably anticipated rental costs in connection with the Change in the Work (either actual rates or discounted local published rates), plus up to five percent (5%) thereof as overhead and profit for the Contractor or any such subcontractors, as applicable. If any of the items included in the lump sum proposal are covered by unit prices contained in the contract document, RCEA may, if it requires the Change in the Work to be performed on a lump sum basis, elect to use these unit prices in lieu of the similar items included in the lump sum proposal in which event inappropriate deduction will be made in lump sum amount prior to the application of any allowed overhead and profit percentages. No overhead and profit shall be applied to any unit prices.

The lump sum proposal may include up to five percent (5%) of the amount which the Contractor will pay to any of its Subcontractors for the Change in the Work as a commission to the Contractor.

(d) In the event that the Contractor fails to submit its proposal within the designated period, RCEA may direct the Contractor to proceed with the Change or Addition to the Work and the Contractor shall so proceed. RCEA shall determine the reasonable costs and time to perform the Work in question, which determination when approved by RCEA shall be final and binding upon the Contractor.

(e) In the event that the parties are unable to agree as to the reasonable costs and time to perform the change in or addition to the Work based upon the Contractor's proposal and RCEA does not elect to have the change in the Work performed on a time and material basis, RCEA shall make a determination of the reasonable cost and time to perform the change in the Work, based upon their own estimates, the Contractor's submission or combination thereof. A Change Order shall be issued for the amount of costs and time determined by RCEA and shall become binding upon the Contractor unless the Contractor submits its protest in writing to RCEA within thirty (30) days of the issuance of the Change Order. RCEA has the right to direct the Contractor in writing to perform the Change in the Work which is the subject of the Change Order. Failure of the parties to reach agreement regarding the costs and time of the performing the Change in the Work and/or any pending protest shall not relieve the Contractor from performing the Change in the work promptly and expeditiously.

(f) If RCEA elects to have the Change in the Work performed on a time and material basis, the same shall be performed, whether by the Contractor's forces or the forces of any of its Subcontractors or Sub-subcontractors, at actual costs to the entity or entities performing the Change in the Work (without any charge for administration, clerical expense, supervision or superintendence of any nature whatsoever, including foremen, or the costs, use or rental of tools or plant), plus ten percent (10%) thereof as the total overhead and profit to the entity or entities actually performing the change (except that this ten percent

(10%) shall not be applied against any payroll costs, defined herein with respect to lump sum proposals). If the entity or entities actually performing the work are Subcontractors or Sub-subcontractors, the Contractor shall be allowed five percent (5%) of the total charge of the performing entity or entities (including mark-up) as Contractor's mark-up. No other mark-ups shall be allowed hereunder. The Contractor shall submit to RCEA daily work and material tickets, to include the identification number assigned to the Change in the Work, the location and description of the Change in the Work, the classification of labor employed (and names and social security numbers), the material used, the equipment rented (not tools) and such other evidence of cost as RCEA may require. RCEA may require authentication of all time and material tickets and invoices by persons designated by RCEA for such purpose. The failure of the Contractor to secure any required authentication shall, if RCEA elects to treat it as such, constitute a waiver by the Contractor of any claim for the cost of that portion of the Change in the Work covered by a non-authenticated ticket or invoice; provided, however, that the authentication of any such ticket or invoice by RCEA shall not constitute an acknowledgment by RCEA that the items thereon were reasonably required for the Change in the Work.

(g) No overhead and profit will be paid by RCEA on account of a Change in the Work except as specifically provided in this Section B-4. Overhead and Profit, as allowed under this paragraph, shall be deemed to include all costs and expenses which the Contractor or any of its Subcontractors may incur in the performance of the Change in the Work and which are not otherwise specifically recoverable by them pursuant to this paragraph.

(h) The Contractor shall not be entitled to any amount for indirect costs, damages or expenses of any nature, including, but not limited to, so-called "impact" costs, labor inefficiency, wage, material or other escalations beyond the prices upon which the proposal is based and to which the parties have agreed pursuant to the provisions of this section, and which the Contractor, its Subcontractors and Sub-subcontractors or any other person may incur as a result of delays, interferences, suspensions, changes in sequence or the like, for whatever cause, whether reasonable or unreasonable, foreseeable or unforeseeable, or avoidable or unavoidable, arising from the performance of any and all changes in the work performed pursuant to this section. It is understood and agreed that the Contractor's sole and exclusive remedy in such event shall be recovery of its direct costs as compensable hereunder and an extension of the time of the Contract, but only in accordance with the provisions of the Contract Documents.

The Contractor agrees that it shall not be entitled to claim damages for anticipated profits on any portion of work that may be deleted. The amount of any adjustment for work deleted shall be estimated at the time deletion of work is ordered and the estimated adjustment will be deducted for the subsequent monthly pay estimates.

RCEA reserves the right to contract with any person or firm other than the Contractor for any or all extra work.

#### ***B-5 Unilateral Change in or Addition to the Work***

Notwithstanding the above, RCEA, directly or through RCEA, may direct the Contractor in writing to perform changes in or additions to the scope of the contract. The Contractor shall perform such work and the parties shall proceed pursuant to the provisions of Section B-4.



#### ***B-6 Differing Site Conditions***

The Contractor shall promptly, and before the following conditions are disturbed, notify the RCEA Project Manager in writing of any:

- (a) Material that the Contractor believes may be material that is hazardous waste, as defined in Section 25118 of the Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law; or
- (b) Subsurface or latent physical conditions at the site differing from those indicated in the Contract Documents; or
- (c) Unknown conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract.

RCEA shall thereupon promptly investigate the conditions. If RCEA finds that they do involve hazardous waste or do materially differ and cause any decrease or increase in the Contractor's cost or time of performance, it will issue a change order as appropriate. Any increase or decrease in the cost of the work or the time for performance shall be adjusted in the manner provided herein for adjustments as to extra and/or additional work and changes. The procedures applicable to claims per extra costs shall then apply.

Contractor shall expect wet soil conditions that do not constitute a change.

#### ***B-7. Claims for Extra Costs***

(a) The plans for work show the conditions as they are supposed or believed by RCEA to exist, but it is neither intended nor to be inferred that the conditions as shown thereon constitute a representation by RCEA or its officers that such conditions are universally existent nor shall RCEA or any of its officers or representatives be liable for any loss sustained by the Contractor as a result of any variance between conditions as shown on the Plans and alternate conditions revealed during the progress of the Work, or otherwise.

(b) RCEA assumes no responsibility for any representations made by any of its officers or agents during or prior to the execution of this Contract, unless (1) such representations are expressly stated in the Contract, and (2) the Contract expressly provides that the responsibility therefore is assumed by RCEA.

(c) It is hereby mutually agreed that the Contractor shall not be entitled to the payment of any additional compensation for any cause, including any act, or failure to act, by RCEA, or the happening of any event, thing or occurrence, unless the Contractor shall have given RCEA due written notice of potential claims as hereinafter specified.

(d) The written notice of potential claims shall set forth the reasons for which the Contractor believes additional compensation will or may be due, the nature of the costs involved, and, insofar as possible, the amount of the potential claim. Except as provided in Section B-6, the notice as above required shall be given to RCEA at least 48 hours prior to the time that the Contractor commences

performance of the work giving rise to the potential claim for additional compensation. If such notice is not given, the Contractor shall be barred from making any such claim for extra compensation.

(e) The Contractor may submit a claim to RCEA concerning any matter for which a protest under Section B-3 or a notice of potential claim is filed within sixty (60) days following the submission of said protest or notice, unless, due to the nature of the claim or the uncompleted state of the work, it is impracticable to determine the amount or the extent of the claim within such period, in which case a claim may be submitted at the earliest time thereafter that such determination can be made, but in no event later than the final release by the Contractor provided for in Section B-71. The claims shall set forth clearly and in detail, for each item of additional compensation claimed, the reasons for the claim, reference to applicable provisions of the Specifications, the nature and the amount of the cost involved, the computations used in determining such costs, and all pertinent factual data. The Contractor shall maintain complete and accurate records of the cost or any portion of the work for which additional compensation is claimed and shall provide RCEA with copies thereof, as required.

(f) RCEA will, within a reasonable time after submission of the Contractor's claim, make decisions in writing on all claims of the Contractor. All such decisions of RCEA shall be final unless the Contractor shall within ten (10) days after receipt of RCEA's decision, file with RCEA a written protest, stating clearly and in detail the basis thereof. Such protest will be reviewed by RCEA, which will issue a decision upon each such protest, and the decision will be final. Pending such decision, the Contractor shall proceed with its work in accordance with the determination or instructions of RCEA. It is hereby agreed that the Contractor's failure to protest RCEA's determination or instructions, within ten (10) days from and after RCEA's determinations or instructions, shall constitute a waiver by the Contractor of all its rights to further protest, judicial or otherwise.

(g) It is the intention of this Section that the differences between the parties, arising under and by virtue of the Contract, be brought to the attention of RCEA at the earliest possible time in order that such matters may be settled, if possible or other appropriate action promptly taken. The Contractor hereby agrees that it shall have no right to additional compensation for any claim that may be based on any act, failure to act, event, thing or occurrence for which no written notice of potential claim as herein required was timely filed.

(h) In the event of an emergency endangering life or property, the Contractor shall act as stated in Section B-61 herein, and after execution of the emergency work shall present an accounting of labor, materials and equipment in connection therewith. The procedure for any payment that may be due for emergency work will be as specified in Section B-3 herein.

## ***B-8 Disputes***

Except as otherwise specifically provided in the Contract Documents, RCEA will initially decide all claims of the Contractor and all disputes arising under and by virtue of the Contract. Such claim or dispute will be processed and decided by RCEA as soon as practicable after its submission and the submission or availability of any additional information necessary to its decision. If the Contractor is dissatisfied with RCEA's decision, the Contractor may, within 15 days from the date of RCEA's decision, follow the procedures set forth in Section B-54. If the Contractor fails to follow the procedures set forth in

Section B-54 within the 15-day period, then RCEA's decision shall be final, conclusive and binding on the Contractor.

#### ***B-9 Guarantee***

(a) A project acceptance period of thirty (30) days shall commence after the equipment has been placed into service. At the end of the project acceptance period, an inspection shall be conducted by the Contractor in the presence of RCEA. The project will be considered complete upon successful passing of the post-acceptance period test.

(b) If the inspection conducted at the end of the project acceptance period does not pass, the contractor shall identify the cause of the failure and make the necessary corrections at no cost to RCEA and after corrections have been made a new thirty (30) day acceptance period will begin.

(c) RCEA shall provide the Contractor with written notification of project acceptance within seven (7) days of the date of the successful post- acceptance period test and the Notice of Completion will subsequently be provided as per the terms of Article II Section B-35 of this contract.

(d) Compensation in the amount of 5% of the total contract amount will be withheld by RCEA until the project has been accepted. Release of retention shall follow the terms of Sections B-70 and B-71 of this contract.

(e) In addition to warranties, representations and guarantees stated elsewhere in the Contract Documents, the Contractor unconditionally guarantees all materials and workmanship furnished hereunder for a period of two calendar years after the Notice of Completion has been filed, and agrees to replace at its sole cost and expense, and to the satisfaction of RCEA, any and all materials which may be defective or improperly installed.

(f) The Contractor shall repair or replace to the satisfaction of RCEA any or all such work that may prove defective in workmanship or materials, ordinary wear and tear excepted, together with any other work which may be damaged or displaced in so doing.

(g) In the event of failure to comply with the above stated conditions within a reasonable time, RCEA is authorized to have the defect repaired and made good at the expense of the Contractor who will pay the costs and charges therefore immediately upon demand, including any reasonable management and administrative costs, and engineering, legal and other consultant fees incurred to enforce this section.

(h) The signing of the Contract by the Contractor shall constitute execution of the above guarantees. Except as otherwise provided in this Contract, the guarantees and warranties shall remain in effect through the one-year maintenance warranty period specified in the Faithful Performance Bond.

## ARTICLE II. CONTROL OF WORK

### ***B-10 Authority of RCEA***

(a) RCEA is the representative of RCEA and has full authority to interpret the Contract Documents, to conduct the construction review and inspection of the Contractor's performance, and to decide questions which arise during the course of the work and its decisions on these matters shall be final and conclusive. RCEA has the authority to reject all work and materials which do not conform to the Contract Documents and has the authority to stop the work whenever such stoppage may be necessary to insure the proper execution of the Contract.

(b) If at any time the Contractor's work force, tools, plant or equipment appear to RCEA to be insufficient or inappropriate to secure the required quality of work or the proper rate of progress, RCEA may order the Contractor to increase their efficiency, improve their character, to augment their number or to substitute other personnel, new tools, plant or equipment, as the case may be, and the Contractor shall comply with such order.

Neither the failure of RCEA to demand such increase of efficiency, number, or improvement, nor the compliance by the Contractor with the demand, shall relieve the Contractor of its obligation to provide quality work at the rate of progress necessary to complete the work within the specified time.

(c) RCEA shall have the authority to make minor changes in the Work, not involving extra costs, and not inconsistent with the purposes of the Work.

(d) Any order given by RCEA, not otherwise required by the Contract Documents to be in writing shall, on request of the Contractor, be given or confirmed by RCEA in writing.

(e) Whenever Work, methods of procedure, or any other matters are made subject to direction or approval, such direction or approval will be given by RCEA.

(f) RCEA shall not be responsible for the construction means, controls techniques, sequences procedures or construction safety.

(g) It is expressly agreed and understood that RCEA must look solely to the Contractor for the furnishing of the Work; that the Contractor must look solely to RCEA for payment; and that RCEA and the Contractor must look solely to each other for the enforcement of any claims or liabilities arising under or by reason of the Contract.

## ***B-11 Drawings***

(a) Drawings furnished herewith are for bidding purposes. RCEA will furnish the Contractor additional copies of the Contract Documents and full-size plans. Additional copies may be obtained by paying the actual cost of reproduction. The Contractor shall have no claim for excusable delay on account of the failure of RCEA to deliver such drawings unless RCEA shall have failed to deliver the same within two weeks after receipt of written demand therefore from the Contractor. The Contractor shall keep one copy of said drawings, in good order, available to RCEA and its representatives, and convenient to the working site. The Contractor shall maintain on the job site and make available to RCEA on request, one current full-sized marked-up set of design drawings which accurately indicate all variations in the completed Work that differ from the design information shown on the plans. If the Contractor, in the course of the Work, finds any discrepancy between the drawings and the physical condition of the locality, or any errors or omissions in the drawings, or in the layout as given by points and instructions, it shall be the Contractor's duty to inform RCEA in writing, and RCEA will promptly verify the same. Any Work done after such discovery, until authorized, will be done at the Contractor's risk. All drawings, Specifications, and copies thereof furnished by RCEA are the property of RCEA and shall not be reused on other Work and, with the exception of the signed Contract sets, are to be returned to RCEA, on request, at the completion of the work. All models are the property of RCEA. The Contractor may be furnished additional instructions and detail drawings by RCEA as necessary to carry out the work required by the Contract Documents.

The additional drawings and instructions thus supplied, will become part of the Contract Documents. The Contractor shall carry out the Work in accordance with the additional detail drawings and instructions.

(b) The drawings shall be supplemented by such shop drawings prepared by the Contractor as are necessary to adequately control the work. No changes shall be made by the Contractor in any shop drawings after they have been reviewed by RCEA.

(c) Shop drawings for any structure shall include, but not be limited to stress sheets, anchor bolt layouts, shop details, and erection plans, which shall be reviewed and accepted by RCEA before any such work is performed.

(d) Contractor agrees that shop drawings processed by RCEA are not Contract Change Orders; that the purpose of shop drawings submitted by the Contractor is to demonstrate to RCEA that the Contractor understands the design concept, that it demonstrates its understanding by indicating which equipment and material it intends to furnish and by detailing the fabrication methods it intends to use.

(e) It is expressly understood, however, that favorable review of the Contractor's shop drawings shall not relieve the Contractor of any responsibility for accuracy of dimensions and details, or for mutual agreements of dimensions and details. It is mutually agreed that the Contractor shall be responsible for agreement and conformity of its shop drawings with the Specifications. Contractor further agrees that if deviations, discrepancies or conflicts between shop drawings and Specifications are discovered either prior to or after shop drawings are processed by RCEA, the Specifications shall control and shall be followed.

(f) Unless otherwise stated, RCEA shall have ten (10) days from the date of receipt of shop drawings for review.

(g) Full compensation for furnishing all shop drawings shall be considered as included in the prices paid for the Contract items of Work to which such drawings relate, and no additional compensation will be allowed, therefore. Any cost related to RCEA's review of any particular set of shop drawings more than twice, due to incompleteness or unacceptability, shall be borne by the Contractor, and RCEA reserves the right to withhold such costs from payments due the Contractor.

(h) When submitted for RCEA's review, Shop Drawings shall bear the Contractor's certification that he has reviewed, checked and approved the Shop Drawings and that they are in conformance with the requirements of the Contract Documents.

(i) That Portion of the Work requiring a Shop Drawing or sample submission shall not begin until the Shop Drawing or submission has been approved by RCEA. A copy of each approved Shop Drawing and each approved sample shall be kept in good order by the Contractor at the site and shall be available to RCEA.

(j) Acceptance by RCEA of any drawing, method of Work, or any information regarding materials and equipment the Contractor proposes to furnish shall not relieve the Contractor of their responsibility for any errors therein and shall not be regarded as an assumption of risks or liability by RCEA, or any officer or employee thereof, and the Contractor shall have no claim under the Contract on account of the failure or partial failure or inefficiency or insufficiency of any plan or method or work or material and equipment so accepted. Such acceptance shall be considered to mean merely that RCEA has no objection to the Contractor using, upon their own full responsibility, the plan or method of work proposed, or furnishing the materials and equipment proposed.

## ***B-12 Permits and Regulations***

Permits, licenses, and easements of a temporary or permanent nature, necessary for the prosecution of the Work shall be secured and paid for by RCEA, except as noted in Section B-31, and herein.

The Contractor shall give all notices and comply with all laws, ordinances, rules and regulations bearing on the conduct of the Work as shown on the plans and described in the Specifications. It shall promptly notify RCEA in writing of any specification at variance therewith and any necessary changes shall be adjusted as provided in the Contract for changes in the work. If the Contractor performs any work knowing it to be contrary to such laws, ordinances, rules, and regulations and without such notice to RCEA, it shall bear all costs arising therefrom.

### ***B-13 Conformity with Contract Documents and Allowable Deviations***

Work and materials shall conform to the lines, grades, cross sections, dimensions and material requirements, including tolerances, shown on Contract Documents. Although measurement, sampling, and testing may be considered evidence as to such conformity, RCEA shall be the sole judge as to whether the work or materials deviate from the Specifications and plans, and its decision as to any allowable deviations therefrom shall be final and conclusive.

Whenever a material, article or piece of equipment is identified on the Drawings or Specifications by reference to brand name or catalogue number, it shall be understood that this is referenced for the purpose of defining the performance or other salient requirements and that other products of equal capacities, quality and function shall be considered. The Contractor may recommend the substitution of a material, article, or piece of equipment of equal substance and function for those referred to in the Contract Documents by reference to brand name or catalogue number, and if, in the opinion of RCEA, such material, article, or piece of equipment is of equal substance and function to that specified, RCEA may approve its substitution and use by the Contractor. Any cost differential shall be deductible from the Contract Price and the Contract Documents shall be appropriately modified by Change Order. The Contractor warrants that if substitutes are approved, no major changes in the function or general design of the Project will result. Incidental changes or extra component parts required to accommodate the substitute will be made by the Contractor without a change in the Contract Price or Contract Time.

### ***B-14 Coordination and Interpretation of Contract Documents***

(a) The Contract Documents are complementary and a requirement occurring in one is as binding as though occurring in all.

(b) Should it appear that the work to be done or any of the matters relative thereto are not sufficiently detailed or explained in the plans, the Contractor shall apply to RCEA for such further explanations as may be necessary and shall conform to them as part of the Contract. In the event of any doubt or question arising respecting the true meaning of the plans, reference shall be made to RCEA, whose decision thereon shall be final and conclusive.

(c) In the event of any discrepancy between any plans and the figures written thereon, the figures shall be taken as correct. Detailed drawings shall prevail over general drawings.

(d) Any reference made on the plans to any Specification, standard, method, or publication of any scientific or technical society or other organization shall, in the absence of a specific designation to the contrary, be understood to refer to the Specification, standard, method, or publication in effect as of the date that the work is advertised for Bids.

### ***B-15 Subcontracts***

(a) The attention of the Contractor is directed to the provisions of Public Contract Code sections 4100-4113, regarding subcontracting and said provisions are by this reference incorporated herein and made a part hereof.

(b) Each Subcontract shall contain a suitable provision for the suspension or termination thereof should the work be suspended or terminated or should the Subcontractor neglect or fail to conform to every provision of the Contract Documents insofar as such provisions are relevant. No Subcontractor or supplier will be recognized as such, and all persons engaged in work will be considered as employees of the Contractor, and the Contractor will be held responsible for their work, which shall be subject to the provisions of the Contract Documents. The Contractor shall be fully responsible to RCEA for the acts or omissions of its Subcontractors and of the persons either directly or indirectly employed by him. Nothing contained in the Contract Documents shall create any contractual relationship between any Subcontractor and RCEA. If a legal action, including arbitration and litigation, against RCEA is initiated by a Subcontractor or Supplier, the Contractor shall reimburse RCEA for the amount of legal, engineering and all other expenses incurred by RCEA in defending itself in said action.

(c) Contractor shall include in all subcontracts and require of all subcontractors all insurance and indemnity requirements and provisions of the Contract that are applicable to any subcontractor's scope of work. Subcontractor's responsibility for defense and indemnity obligations shall survive the termination or completion of this Contract for the full period of time allowed by law.

(d) Each subcontractor shall be obligated to Contractor and RCEA in the same manner and to the same extent as Contractor is obligated to RCEA under the Contract Documents. If hiring a sub-subcontractor to perform any Work, the subcontractor shall include in the sub-subcontract all provisions of the Contract Documents including all insurance and indemnity provisions that are applicable to said sub-subcontractor's scope of work.

(e) Contractor shall furnish a copy of the Contract insurance and indemnity provisions to any subcontractor upon request. Upon request from RCEA, Contractor shall provide insurance certificates and endorsements of its subcontractors.

#### ***B-16 Cooperation of Contractors***

(a) Should construction be under way by other forces or by other Contractors within or adjacent to the limits of the Work specified or should Work of any other nature be under way by other forces within or adjacent to said limits, the Contractor shall cooperate with all such other contractors or other forces to the end that any delay or hindrance to their Work will be avoided. The right is reserved to perform other or additional Work at or near the site (including material sources) at any time, by the use of other forces.

(b) When two or more contractors are employed on related or adjacent Work, each shall conduct its operation in such a manner as not to cause any unnecessary delay or hindrance to the other. Each contractor shall be responsible to the other for all damage to work, to persons or property caused to the other by its operations, and for loss caused the other due to its unnecessary delays or failure to finish the Work within the time specified for completion.



### ***B-17 Superintendence***

(a) The Contractor shall designate in writing before starting Work an individual as authorized representative who shall have the authority to represent and act for the Contractor. This authorized representative shall always be present at the site of the Work while Work is in progress on the Contract. When work is not in progress and during periods when Work is suspended, arrangements acceptable to RCEA shall be made for any emergency work which may be required.

(b) The Contractor is solely responsible, at all times, for the superintendence of the Work and for its safety and progress.

(c) Whenever the Contractor or its authorized representative is not present on any particular part of the Work where it may be desired to give direction, orders will be given by RCEA, which shall be received and obeyed by the superintendent or foreman who may have charge of the particular Work in reference to which the orders are given.

(d) Any order given by RCEA, not otherwise required by the Specifications to be in writing, will on request of the Contractor, be given or confirmed by RCEA in writing.

### ***B-18 Inspection of Work***

(a) Unless otherwise provided, all equipment, materials, and Work shall be subject to inspection and testing by RCEA. RCEA will observe the progress and quality of the Work and determine, in general, if the work is proceeding in accordance with the intent of the Contract Documents. It shall not be required to make comprehensive or continuous inspections to check the quality of the Work, and it shall not be responsible for construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work. Visits and observations made by RCEA shall not relieve the Contractor of its obligation to conduct comprehensive inspections of the Work and to furnish proper materials, labor, equipment and tools, and perform acceptable Work, and to provide adequate safety precautions, in conformance with the intent of the Contract.

(b) Whenever the Contractor varies the period during which Work is carried on each day, it shall give due notice to RCEA so that proper inspection may be provided. Proper facilities for safe access for inspection to all parts of the Work shall at all times be maintained for the necessary use of RCEA and other agents of RCEA, and agents of the Federal, State, or local governments at all reasonable hours for inspection by such agencies to ascertain compliance with laws and regulations.

(c) One or more inspectors may be assigned to observe the Work and to act in matters of construction under this Contract. It is understood that inspectors shall have the power to issue instructions and make decisions within the limitations of the authority of RCEA. Such inspection shall not relieve the Contractor of its obligation to conduct comprehensive inspections of the Work, to furnish proper materials, labor, equipment and tools, and perform acceptable Work, and to provide adequate safety precautions in conformance with the intent of the Contract.

(d) RCEA and its representatives and RCEA and its Representative shall always have access to the Work wherever it is in preparation or progress, and the Contractor shall provide safe and convenient facilities for such access and for inspection. If the Specifications, RCEA's instructions, laws, ordinances, or any public authority require any material, equipment or Work to be specifically tested or approved, the

Contractor shall give RCEA timely notice of its readiness for inspection, and if the inspection is by an authority other than RCEA, of the time fixed for inspection. Inspections by RCEA will be made promptly and, where practicable, at the source of supply.

(e) Work performed without inspection may be required to be removed and replaced under proper inspection and the entire cost of removal and replacing, including the cost of RCEA-furnished materials used in the Work, shall be borne by the Contractor, regardless of whether or not the Work exposed is found to be defective. Examination of questioned work, other than that installed without inspection, may be ordered by RCEA and, if so ordered, the Work must be uncovered by Contractor. If such Work is found to be in accordance with the Contract Documents, RCEA will pay the cost of re-examination and replacement. If such Work is found to be not in accordance with the Contract Documents, the Contractor shall pay such cost unless it can show that the defect in the Work was caused by another Contractor, and in that event RCEA will pay such costs.

(f) The inspection of the Work shall not relieve the Contractor of its obligation to fulfill the Contract as herein prescribed, or in any way alter the standard of performance provided by the Contractor, and defective Work shall be made good and unusable materials may be rejected, notwithstanding that such work and materials have been previously overlooked by RCEA and accepted or estimated for payment. If the Work or any part thereof shall be found defective, Contractor shall, within five (5) calendar days, make good such defect in a manner satisfactory to RCEA. If the Contractor shall fail or neglect to make ordered repairs of defective work or to remove the condemned materials from the Work within ten (10) calendar days after direction by RCEA in writing, RCEA may make the ordered repairs, or remove the condemned materials, and deduct the cost thereof from any monies due the Contractor.

(g) The Contractor shall furnish promptly without additional charge all facilities, labor and materials reasonably needed by RCEA for performing all inspection and tests. Contractor shall be charged with any additional cost of inspection when material and workmanship are not ready at the time specified by the Contractor for its inspection.

(h) Where any part of the Work is being done under an encroachment permit or building permit, or is subject to Federal, State, County or local codes, laws, ordinances, rules or regulations, representatives of the government agency shall have full access to the work and shall be allowed to make any inspection or tests in accordance with such permits, codes, laws, ordinances, rules, or regulations. If advance notice of the readiness of the Work for inspection by the governing agency is required, the Contractor shall furnish such notice to the appropriate agency.

(i) Forty-eight hours prior to work being accomplished, the Contractor will notify RCEA of the proposed working hours to accomplish the Work for that day. Overtime and shift Work may be established as a regular procedure by the Contract and with the written permission of RCEA. Such permission may be revoked at any time. No work other than overtime and shift Work established as a regular procedure shall be done between the hours of 7 p.m. and 7 a.m., Saturdays between the hours of 6 p.m. and 7a.m, and Sundays, between the hours of 6 p.m. and 9a.m. or legal holidays, except such Work as is necessary for the proper care and protection of the Work already performed or except in case of an emergency.

All costs for the overtime inspection, including those occurring as a result of overtime and shift Work established as a regular procedure, shall be paid for by the Contractor. Overtime inspection shall

include inspection required during working days between the hours of 7 p.m. and 7 a.m. Such costs will include, but will not necessarily be limited to, engineering, inspection, general supervision and other expenses which are directly chargeable to the overtime work. All such charges shall be deducted by RCEA from payment due the Contractor.

(j) A pre-final inspection of the Work will be made by RCEA. This inspection shall be made as soon as practical after Contractor has notified RCEA in writing that the Work is ready for this inspection. The pre-final inspection shall be made prior to acceptance of any portion of the work as being substantially complete and prior to filing the Notice of Completion.

A final inspection of all the Work will be made by RCEA and Contractor.

### ***B-19 Tests***

RCEA shall witness all tests specified on the plans. The responsibility for payment for these tests is also outlined on the plans. RCEA will require such tests as it deems necessary to determine the quality of work or compliance with Contract Documents. The Contractor shall furnish promptly without additional charge all facilities, labor, and material reasonably required for performing safe and convenient tests as may be required by RCEA. All tests by RCEA will be performed in such a manner as will not unnecessarily delay the Work. The Contractor shall not be required to reimburse RCEA for tests performed by RCEA or Engineer. If samples of materials are submitted which fail to pass the specified tests, the Contractor shall pay for all subsequent tests.

### ***B-20 Removal of Rejected and Unauthorized Work and Materials***

(a) All Work or materials which have been rejected shall be remedied or removed and replaced by the Contractor in an acceptable manner and no compensation will be allowed it for such removal, replacement, or remedial Work.

(b) Any Work done beyond the lines and grades shown on the plans or established by RCEA or any extra Work done without written authority will be considered as unauthorized Work and will not be paid for. Upon order of RCEA, unauthorized Work shall be remedied, removed, or replaced at the Contractor's expense.

(c) Upon failure of the Contractor to comply with any order of RCEA made under this Section, RCEA may cause rejected or unauthorized work to be remedied, removed or replaced, and may deduct the costs therefore from any monies due or to become due the Contractor.

(d) If following the installation of any equipment furnished hereunder, defects requiring correction by the Contractor are found, RCEA shall have the right to operate such unsatisfactory equipment and make reasonable use thereof until the equipment can be shut down for correction of defects without injury to RCEA.

### ***B-21 Deductions for Uncorrected Work***

If RCEA deems it inexpedient to correct Work damaged or not done in accordance with the Contract, an equitable deduction from the Contract price shall be made therefore, and such sum may be withheld by RCEA from Contractor's payment.

### ***B-22 Equipment***

(a) The Contractor shall provide adequate and suitable equipment to meet the above requirements, and when ordered by RCEA, shall remove unsuitable equipment from the Work.

(b) The Contractor shall identify each piece of its equipment, other than hand tools, by means of an identifying number plainly stenciled or stamped on the equipment at a conspicuous location, and shall furnish to RCEA a list giving the description of each piece of equipment and its identifying number. In addition, the make, model number and empty gross weight of each unit of compacting equipment shall be plainly stamped or stenciled in a conspicuous place on the unit. The gross weight shall be either the manufacturer's rated weight or the scale weight.

(c) In the case of termination of this Contract before completion from any cause whatever, the Contractor, if notified to do so by RCEA, shall promptly remove any part or all its equipment and supplies from the property of RCEA. If the Contractor fails to do so, RCEA shall have the right to remove such equipment and supplies at the expense of the Contractor.

### ***B-23 Character of Worker***

The Contractor shall employ only competent subcontractors or skillful workers to do the Work. If any Subcontractor, or person employed by the Contractor or any Subcontractor shall fail or refuse to carry out the directions of RCEA or its agents or shall appear to RCEA or its agents to be incompetent or to act in a disorderly or improper manner, it shall be removed from the project work immediately on the requisition of RCEA or its agents, and such person shall not again be employed on the work. Such discharge shall not be the basis for any claim for compensation or damages against RCEA, or any of its officers or agents.

### ***B-24 Separate Contracts***

RCEA reserves the right to let other contracts in connection with this Work. The Contractor shall afford other contractors' reasonable opportunity for the introduction and storage of their materials and the execution of their Work and shall properly connect and coordinate its Work with the other contractor's Work.

If any part of the Contractor's Work depends for proper execution or results upon the Work of any other contractor, the Contractor shall inspect and promptly report to RCEA any defects in such Work that render it unsuitable for such proper execution and results. The Contractor's failure to inspect and report shall constitute an acceptance of the other contractor's work as fit and proper for the reception of its Work, except as to defects which may develop in the other contractor's Work after the execution of its work.

To ensure the proper execution of its subsequent Work, the Contractor shall measure Work already in place and shall at once report to RCEA any discrepancy between the executed Work and the drawings.

RCEA may perform additional Work related to the Project by himself, or he may let other Contractors containing provisions similar to these. The Contractor will afford the other Contractors who are parties to such Contracts (or RCEA, if he is performing the additional Work himself), reasonable opportunity for the introduction and storage of materials and equipment and the execution of Work and shall properly connect and coordinate the Work with theirs.

If the performance of additional Work by other Contractors or RCEA is not noted in the Contract Documents prior to the execution of the Contract, written notice thereof shall be given to the Contractor prior to starting any such additional Work. If the Contractor believes that the performance of such additional Work by RCEA or others involves him in additional expense or entitles him to an extension of the Contract Time, he may make a claim therefore as provided in Part 3, Article 1, Section B-7 of this Contract.

#### ***B-25 Materials, Services and Facilities***

(a) Unless otherwise specifically stated in the Contract Documents, the Contractor shall furnish all materials, labor, tools, equipment, water, light, power, sanitary facilities, transportation, supervision, temporary construction of any nature on all of the facilities necessary for the execution and completion of the work. Unless otherwise specified, all materials shall be new and shall be manufactured, handled, and installed in a workmanlike manner to insure completion of the work in accordance with the Contract Documents. The Contractor shall, upon request of RCEA, furnish satisfactory evidence as to the kind and quality of materials.

(b) Where materials are to be furnished by RCEA, the type, size, quantity and location at which they are available will be stated in the Contract Documents.

(c) Manufacturers' warranties, guarantees, instruction sheets and parts listed, which are furnished with certain articles or materials incorporated in the work, shall be delivered to RCEA before acceptance of the Contract.

Manufactured articles, materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned as directed by the manufacturer.

Materials, supplies, and equipment shall be in accordance with samples submitted by the Contractor and approved by RCEA.

Materials, supplies, or equipment to be incorporated into the Work shall not be purchased by the Contractor or the subcontractor subject to a chattel mortgage or under a conditional sale contract or other agreement by which an interest is retained by the seller.

The completed Work shall include all necessary permanent safety devices, such as machinery guards and similar ordinary safety items required by the State and Federal (OSHA) industrial safety

authorities and applicable local and national codes. Further, any features of the work subject to such safety regulations shall be fabricated, furnished, and installed in compliance with these requirements. Prior to performing Work specified herein, the Contractor shall request an inspection by a State Industrial Safety representative for the purpose of determining that the facilities provided are in compliance with the State and Federal safety requirements. Any facilities which are deemed necessary by official response following the above safety inspection shall be added or corrected as required as a part of the Contract Work. However, no payment will be made to the Contractor for such changes or additions to equipment furnished under this Contract since it is a requirement of these Specifications that such equipment be manufactured or fabricated in such a manner as to be in conformance with all Federal, State, and local safety requirements. The Contractor shall notify all manufacturers, equipment suppliers, and subcontractors of the provisions of this article.

In approving materials for installation in the project, RCEA assumes no responsibility for injury or claims resulting from failure of the materials to comply with applicable National, State, and local safety codes or requirements, or the safety requirements of a recognized agency, or failure due to faulty design concepts, or defective workmanship and materials.

All materials incorporated into the job shall be new, especially purchased for the project unless otherwise specified or agreed in writing. Unless otherwise noted, any equipment offered shall be current modifications which have been in successful regular operation under comparable conditions for a period sufficient to determine the reliability of the product. This time requirement, however, does not apply to minor details nor to thoroughly demonstrated improvements in design or in materials of construction.

Whenever the Contractor shall furnish materials or manufactured articles or shall do work for which no detailed specifications are set forth, the materials or manufactured articles shall be of the best grade in quality and workmanship obtainable in the market from firms of established good reputation, or, if not ordinarily carried in stock, shall conform to the usual standards of first-class materials or articles of the kind required with due consideration of the use to which they are to be put. In general, the work performed shall be in full conformity and harmony with the intent to secure the best standard of construction and equipment of the work as a whole or in part.

#### ***B-26 Storage of Materials***

Materials shall be so stored as to ensure the preservation of their quality and fitness for the Work. When considered necessary, they shall be placed on wooden platforms or other hard, clean surfaces, and not on the ground, and they shall be placed under cover. Stored materials shall be located so as to facilitate prompt inspection. Private property shall not be used for storage purposes without the written permission of RCEA or lessee.

Electrical equipment, devices, and motors shall be placed in dry and warm storage as approved by RCEA.

All equipment and materials which are not to be painted (such as aluminum and stainless steel) and all factory finished or coated equipment and materials which are not to be painted, that are installed prior to completion of adjacent work, shall be completely covered and protected.

Articles or materials to be incorporated in the work shall be stored in such a manner as to ensure the preservation of their quality and fitness for the work, and to facilitate inspection.

#### ***B-27 Trade Names and Alternatives***

For convenience in designation in the Specifications and plans, certain articles or materials to be incorporated in the work may be designated under a trade name or the name of a manufacturer and its catalog information. The use of an alternative article or material which is of equal quality and of the required characteristics for the purpose intended will be permitted, subject to the following requirements:

(1) The burden of proof as to the quality and suitability of alternatives shall be upon the Contractor and it shall furnish all information necessary as required by RCEA. RCEA shall be the sole judge as to the quality and suitability of alternative articles or materials and its decision shall be final.

(2) Whenever the Specifications and Plans permit the substitution of a similar or equivalent material or article, no tests or action relating to the approval of such substitute material or article will be made until the request for substitution is made in writing by the Contractor accompanied by complete data as to the equality of the material or article proposed. Such request by the Contractor must be made within thirty-five (35) days after award of Contract.

#### ***B-28 Assignment***

The Contractor shall not assign the Contract or sublet it as a whole or in part without the prior written consent of RCEA, nor shall the Contractor assign any monies due, or to become due to it hereafter, without the prior written consent of RCEA.

#### ***B-29 Use of Completed Portions, Right to Operate Unsatisfactory Equipment or Facilities***

(a) RCEA may, at any time, and from time to time, during the performance of the Work, enter the work site for the purpose of installing any necessary work by RCEA labor or other contracts, and for any other purpose in connection with the installation of facilities. In doing so, RCEA shall endeavor not to interfere with the Contractor and the Contractor shall not interfere with other work being done by or on behalf of RCEA.

(b) If, prior to completion and final acceptance of all the Work, RCEA takes possession of any structure or facility (whether completed or otherwise) comprising a portion of the Work with the intent to retain possession thereof (as distinguished from temporary possession contemplating the return to the Contractor), then, while RCEA is in possession of the same, the Contractor shall be relieved of liability for loss or damage to such structure other than that resulting from the Contractor's fault or negligence. Such taking of possession by RCEA's shall not relieve the Contractor from any provisions of this Contract respecting such structure, other than to the extent specified in the preceding sentence, nor constitute a final acceptance of such structure or facility.

(c) If, following installation of any equipment or facilities furnished by the Contractor, defects requiring correction by the Contractor are found, RCEA shall have the right to operate such unsatisfactory equipment or facilities and make reasonable use thereof until the equipment or facilities can be shut down for correction of defects without injury to RCEA.

### ***B-30 Lands for Work, Right-of-Way Construction Roads***

(a) RCEA will provide the lands, easements, rights-of-way, and/or encroachment permits necessary or other rights to enter and work on lands necessary for the performance of the Work. Other permits and licenses are addressed by sections B-13 and B-48. Should the Contractor find it advantageous to use any additional land for any purpose whatever, the Contractor shall provide for the use of such land at its expense. RCEA shall be furnished with a copy of written agreements or otherwise be notified in writing of additional working space which is acquired. Nothing herein contained and nothing marked on the plans shall be interpreted as giving the Contractor exclusive occupancy of the territory provided by RCEA. When two or more contracts are being executed at one time on the same or adjacent land in such a manner that work on one contract may interfere with that on another, RCEA shall decide which contractor shall cease work, and which shall continue, or whether the work on both contracts shall progress at the same time and in what manner, and the decision of RCEA shall be final and binding. When the territory of one contract is the necessary or convenient means of access for the performance of another contract, such privilege of access or any other reasonable privilege may be granted by RCEA to the contractor so desiring, to the extent, amount, in the manner, and at the time permitted. No such decision as to the method or time of conducting the work or the use of territory shall be the basis of any claim for delay or damage.

(b) Lands, easements, or rights-of-way to be furnished by RCEA for construction operations will be specifically shown on the Plans.

(c) The Contractor shall maintain all roads necessary to reach the various parts of the work and for the transportation thereto of construction material and personnel. The cost of maintaining such roads shall be borne by the Contractor.

(d) Certain areas of access are limited by permits and require mats or matting for their use. Such mats may be of wood, metal or combination of appropriate geotechnical fabric with gravel overlay. However, at project conclusion all mats must be removed, and the surface restored to its original condition.

### ***B-31 RCEA's Right to Audit and Preservation of Records***

(a) The Contractor shall maintain books, records and accounts of all costs in accordance with generally accepted accounting principles and practices. RCEA, the California Energy Commission, and their authorized representatives shall have the right to review and copy any records and supporting documentation pertaining to the performance of this agreement and to interview staff related to the performance of this agreement. Furthermore, RCEA or its designated representatives shall have the right to audit the books, records and accounts of the Contractor under any of the following conditions:

(1) The Contract is terminated for any reason in accordance with the provisions of the Contract Documents in order to arrive at equitable termination costs;

(2) In the event of a disagreement between the Contractor and RCEA over the amount due the Contractor under the terms of the Contract;



(3) To check or substantiate any amounts invoiced or paid which are required to reflect the costs of the Contractor, or the Contractor's efficiency or effectiveness under this Contract or in connection with extras, changes, claims, additions, back charges, or others, as may be provided for in this contract; and/or

(4) If it becomes necessary to determine RCEA's rights and the Contractor's obligations under the Contract or to ascertain facts relative to any claim against the Contractor which may result in a charge against RCEA;

(5) To determine any difference in cost occasioned by a permissible substitution;

(6) For any other reason in RCEA's sole judgment.

(b) If any of the conditions stated in paragraph B-31(a) are satisfied, Contractor shall provide RCEA (or its representatives), unlimited, reasonable access during working hours to the Contractor's books and records under the conditions stated above. RCEA's audit rights shall be liberally construed in RCEA's favor.

(c) The Contractor, from the effective date of final payment or termination hereunder, shall preserve and make available to RCEA for a period of three (3) years thereafter, at all reasonable times at the office of the Contractor (but without any charge to RCEA), all its books, records, documents, photographs, micro-photographs, and other evidence bearing on the costs and expenses of the Contractor under this Contract and relating to the work hereunder.

(d) RCEA will make all payments required of it under this Contract subject to audit, under circumstances stated above, which audit may be performed at RCEA's option, either during the Contract time period or during the record retention time period. Regardless of authorization, approval or acceptance, signatures or letters which are given by RCEA and are part of RCEA's control systems or are requested by the Contractor, the payments made under this Contract shall not constitute a waiver or agreement by RCEA that it accepts as correct the billings, invoices or other charges on which the payments are based. If RCEA's audit produces a claim against the Contractor, RCEA may pursue all its legal remedies even though it has made all or part of the payments required by this Contract.

(e) If any audit by RCEA or its representative discloses an underpayment by RCEA pursuant to the terms of the Contract Documents, RCEA shall have the duty to pay any amount found by the audit to be owed to the Contractor. If such audit discloses an overpayment, the Contractor shall have the obligation to reimburse RCEA for the amount of the overpayment. RCEA's right to claim reimbursement from the Contractor of any overpayment shall not be terminated or waived until three years after the completion of RCEA's audit or upon the termination of audit rights under subparagraph B-31(f), whichever date is later. The obligation of the Contractor to make reimbursements hereunder shall not terminate except as provided by law.

(f) RCEA's right to audit and the preservation of records shall terminate at the end of three (3) years after the date final payment is made or termination of the Contract. The Contractor shall include this "Right to Audit and Preservation of Records" clause in all subcontracts issued by it shall require the same to be inserted by all lower tier Subcontractors in their subcontracts, for any portion of the work. Should

Contractor fail to include this clause in any such contract or lower tier contract, or otherwise fail to insure RCEA's rights hereunder, Contractor shall be liable to RCEA for all costs, expenses and attorney's fees which RCEA may have to incur obtaining or attempting to obtain an audit or inspection of or the restoration of records which otherwise have been available to RCEA from said persons under this clause. Such audit may be conducted by RCEA or its authorized representative.

### ARTICLE III. PROGRESS AND COMPLETION OF WORK

#### ***B-32 Progress Schedule***

The Contractor shall submit to RCEA such schedules of quantities and costs, progress schedules, payrolls, reports, estimates, records and other data, where applicable, as are required by the Contract Documents for the Work to be performed.

Prior to the first partial payment estimate, the Contractor shall submit construction progress schedules showing the order in which it proposes to carry on the Work, including dates at which it will start the various parts of the WORK, estimated date of completion of each part and as applicable:

- The dates at which special detail drawings will be required; and
- Respective dates for submission of Shop Drawings, the beginning of manufacture, the testing and the installation of materials, supplies, and equipment.
- The Contractor shall also submit a schedule of payments that it anticipates it will earn during the **course of the Work**.

#### ***B-33 Commencement and Progress of the Work and Time of Completion***

Prior to the start of construction, RCEA will conduct a preconstruction conference. At the conference, RCEA will review the planned development with RCEA, Contractor, and other interested parties. Items to be reviewed include materials, equipment, rights-of-way, schedules and all arrangements for prosecuting the Work in accordance with the various permits. Funding for this agreement carries with it the requirement for a Labor Compliance Program to assure that the prevailing wage provisions of the Labor Code are being met. The pre-construction conference will also include an overview of fair labor requirements and distribution of documents.

RCEA may execute a Limited Notice to Proceed in the form attached in the contract documents (LNTTP"), directing the Contractor to commence procurement and the scope of Work identified in the LNTTP under and in accordance with the terms of this Agreement. All Work performed by the Contractor prior to or pursuant to the LNTTP shall be deemed part of the Work.

The Contractor shall begin Work after receiving a Notice to Proceed and shall diligently prosecute the work to completion as described in the Notice to Proceed.

It is the interest of RCEA to issue the Limited Notice to Proceed by July 9, 2020.

**The Notice to Proceed cannot be issued until the Project receives FAA approval and the Lease Agreement between RCEA and Humboldt County is fully executed.**

#### ***B-34 Project Completion***

(a) When all of the work to be performed under this Contract is has been fully completed, the Contractor shall notify the Project Manager in writing, setting a date for the final inspection. The Contractor and Subcontractor representatives shall attend the inspection. As a result of this inspection, the Project Manager will prepare a list of items ("punch list") that are incomplete or not installed according to the Contract Documents. Failure to include items on this list does not relieve the Contractor from fulfilling all requirements of the Contract Documents.

(b) The Project Manager will promptly deliver the punch list to the Contractor and it will include a period of time by which the Contractor shall complete all items listed thereon. On completion of all items on the punch list, verified by a final inspection, and all other Contract requirements, so that Final Completion has been achieved to RCEA's satisfaction, RCEA will file a Notice of Completion with the County Recorder. Payment of retention from the Contract, less any sums withheld pursuant to the terms of this Contract or applicable law, shall not be made sooner than thirty-five (35) calendar days after the date of filing of Notice of Completion.

#### ***B-35 Suspension of Work***

(a) RCEA may at any time, by notice in writing to the Contractor, suspend any part of the Work for such period of time as may be necessary to prevent improper execution of the Work on the project by the Contractor, its Subcontractors or agents, and the Contractor shall have no claim for damages or additional compensation on account of any such suspension.

(b) RCEA may at any time suspend any part or all of the Work upon ten (10) days written notice to the Contractor, who shall thereupon discontinue all Work suspended except for all operations to prevent loss or damage to work already executed as may be directed by RCEA. In the event a part of the work is suspended, the Contractor, if the suspension is not through its fault or the fault of its Subcontractors or agents, shall be paid on the same basis as Extra Work for costs of work performed in accordance with such orders of RCEA during such suspension, provided that this shall not include any cost pertaining to work not suspended by said notice. Work shall be resumed by the Contractor after such suspension on written notice from RCEA. In the event of suspension of the entire Work by RCEA, the Contractor, if the suspension is not through fault of the Contractor or the fault of its Subcontractors or agents, shall be paid the sum of \$0 for each calendar day during which the entire Work shall have been suspended. Said sum is hereby mutually agreed upon as fixed and liquidated damages in full settlement of all costs and expenses, losses and damages resulting to the Contractor from such suspension. Work shall be resumed by the Contractor after such suspension on written notice from RCEA.

(c) In the event of any suspension of the Work in whole or in part under subsection (b) above, the Contractor shall be entitled to an extension of time wherein to complete the work to the extent of the delay caused the Contractor thereby.

(d) In the event the entire Work shall be suspended by order of RCEA, as hereinabove provided, and shall remain so suspended for a period of sixty (60) consecutive days, through no fault of the Contractor, and notice to resume the work shall not have been served on the Contractor as hereinabove provided, Contractor may, at its option, by written notice to RCEA, terminate the Contract in the same manner as if the termination had been initiated by RCEA, and RCEA shall have no claim for damages because of such termination of the Contract.

(e) If, through no act or fault of the Contractor, the Work is suspended for a period of more than ninety (90) days by RCEA or under an order of Court or other public authority, or RCEA fails to act on any request for payment within thirty (30) days after it is submitted, or RCEA fails to pay the Contractor substantially the sum approved by RCEA or any final award by arbitration or litigation within thirty (30) days of its approval and presentation, then the Contractor may, after ten (10) days from delivery of a written notice to RCEA, terminate the Contract and recover from RCEA payment for all Work executed and all expenses sustained.

In addition and in lieu of terminating the Contract, if RCEA has failed to act on a request for payment or if RCEA has failed to make any payment as aforesaid, the Contractor may upon ten (10) days written notice to RCEA stop the Work until he has been paid all amounts then due, in which event and upon resumption of the Work, Change Orders shall be issued for adjusting the Contract Price or extending the Contract Time or both to compensate for the costs and delays attributable to the stoppage of the Work.

If the performance of all or any portion of the Work is suspended, delayed, or interrupted as a result of a failure of Owner to act within the time specified in the Contract Documents, or if no time is specified, within a reasonable time, an adjustment in the Contract Price or an extension of the Contract Time, or both, shall be made by Change Order to compensate the Contractor for the costs and delays necessarily caused by the failure of RCEA.

If the Contractor intends to file a claim for additional compensation for a delay caused by RCEA at a particular time, he shall file a Notice of Claim with RCEA within 7 days of the beginning of the occurrence. The Notice of Claim shall be in duplicate, in writing, and shall state the circumstances and the reasons for the Claim but need not state the amount. No Claim for additional compensation will be considered unless a Notice of Claim has been filed with RCEA within the time and in the manner stated above. Contractor's failure to file a claim shall constitute a waiver.

### ***B-36 Termination for Default - Damages for Delay - Timely Extension***

(a) The Contractor shall at all times employ such force, plant, materials, and tools as will be sufficient, in the opinion of RCEA, to prosecute the work at not less than the rates fixed under the terms of the Contract and to complete the work or any part thereof within the time limits fixed therein. If the Contractor refuses or fails to prosecute the work, or any separable part thereof, with such diligence as will ensure the completion within the time specified in the Contract, or any extension thereof, or fails to complete said work within such time, RCEA may, after giving ten (10) days written notice to the

Contractor, terminate its right to proceed with the work or such part of the work as to which there has been delay.

(b) The 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 unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to Acts of God, acts of the public enemy, acts of RCEA, acts of another contractor in the performance of a Contract with RCEA, fires, floods, excluding site flooding due to groundwater, epidemics, quarantine restrictions, unusually severe weather, as determined by RCEA; and

(2) The Contractor shall, within 48 hours of the start of the occurrence, give notice to RCEA of the cause of the potential delay and an estimate of the possible time extension involved. The Contractor, within seven (7) days from the beginning of any such delay (unless RCEA grants further period of time before the date of final payment under the Contract), notifies RCEA in writing of the causes of delay and requests an extension of time.

RCEA shall ascertain the facts and the extent of the delay and extend the time for completing the work when, in its judgment, the findings of fact justify such an extension, and its findings of fact shall be final and conclusive on the parties.

(c) A request for an extension of time, or the granting of an extension of time, shall not constitute a basis for any claim against RCEA for additional compensation or damages unless caused by RCEA or another contractor employed by RCEA.

(d) If the Contractor should be adjudged bankrupt, or if it should make a general assignment for the benefit of its creditors, or if a receiver should be appointed for the Contractor on account of its insolvency and not be discharged within ten (10) days after its appointment, or if the Contractor should fail to make prompt payments to subcontractors or suppliers, or should it persistently disregard laws, ordinances, or the instructions of RCEA, or otherwise commit a substantial violation of any provisions of the Contract, Owner may, after giving ten (10) days written notice to the Contractor, terminate the Contract and the Contractor's right to proceed with the work.

(e) No extension of time will be considered for time lost due to weather conditions normal to the area. Unusual weather conditions, if determined by RCEA to be of a severity that could not be predicted, may be considered as cause for an extension of Contract completion time.

(f) Delays in delivery of equipment or material purchased by the Contractor or their subcontractors shall not be considered as a just cause for delay. The Contractor shall be fully responsible for the timely ordering, scheduling, expediting delivery, and installation of all equipment and materials.

(g) The rights and remedies of RCEA provided in this section are in addition to any of the rights and remedies provided by law or under this Contract.

(h) In addition to RCEA's rights under this section, if at any time before completion of the work under the Contract, it shall be determined by RCEA that reasons beyond the control of the parties hereto render it impossible or against the interests of RCEA to complete the Work, or if the Work shall be stopped by an injunction of a court of competent jurisdiction or by order of any competent authority, RCEA may, upon ten (10) days written notice to the Contractor, discontinue the Work and terminate the Contract. Upon service of such notice of termination, the Contractor shall discontinue the Work in such manner, sequence, and at such times as RCEA may direct. The Contractor shall have no claim for damages for such discontinuance or termination, nor any claim for anticipated profits on the Work thus dispensed with, nor any other claim except for the Work actually performed up to the time of discontinuance, including any extra work ordered by RCEA to be done, nor for any claim for liquidated damages in accordance with the provisions of Section B-36.

### ***B-37 Rights of RCEA Upon Termination***

(a) In the event the right of the Contractor to proceed with the Work, or any portion thereof, has been terminated because of the fault of the Contractor and the Contractor has been given ten (10) days' notice to cure such fault and has not done so, RCEA may take over the Work and prosecute the same to completion by contract or any other method RCEA deems expedient, and may take possession of and utilize in completing the Work such materials, appliances, equipment and plant as may be on the site of the work and necessary therefore. Whether or not the Contractor's right to proceed with the work is terminated, it and its sureties shall be liable for all damages including costs of managerial and administrative services, engineering, legal and other consultant fees, sustained or incurred by RCEA in enforcing the provisions of Section B-36 and in completing or causing to complete the Contract work.

Upon termination, the Contractor shall not be entitled to receive any further payment until the Work is finished. If upon completion of the Work the total cost to RCEA, including engineering, legal and other consultant fees, costs of managerial and administrative services, construction costs, and liquidated damages shall be less than the amount which would have been paid if the Work had been completed by the Contractor in accordance with the terms of the Contract, then the difference shall be paid to the Contractor in the same manner as the final payment under the Contract. If the total cost incurred by RCEA on account of termination of the Contract and subsequent completion of the Work by RCEA by whatever method RCEA may deem expedient shall exceed said amount which the Contractor would otherwise have been paid, the Contractor and its sureties shall be liable to RCEA for the full amount of such excess expense.

(b) The rights and remedies of RCEA provided in this section are in addition to any of the rights and remedies provided by the law or under this Contract.

### ***B-38 Failure to Complete the Work in the Time Agreed Upon - Liquidated Damages***

(a) Liquidated Damages - It is agreed by the parties to the Contract that time is of the essence; and that in case all the Work is not completed before or upon the expiration of the time limit as set in the Bid, Contract and Progress Schedule, or within any time extensions that may have been granted, damage will be sustained by RCEA; and that it may be impracticable to determine the actual amount of damage by reason of such delay; and it is, therefore, agreed that the Contractor shall pay to RCEA as damages the amount of **\$250.00 per day** for each and every day's delay in finishing the work in excess of the number of days specified. The parties expressly agree that this liquidated damage clause is reasonable under the circumstances existing at the time the Contract was made. RCEA shall have the right to deduct the amount of liquidated damages from any money due or to become due the Contractor.

(b) In addition, RCEA shall have the right to charge to the Contractor and to deduct from the final or progress payments for the Work the actual cost to RCEA of legal, engineering, inspection, superintendence, and other expenses, which are directly chargeable to the Contract and which accrue during the period of such delay, except that the cost of final inspection and preparation of the final estimate shall not be included in the charges.

(c) Exclusions - Notwithstanding the provisions of subsection (a), the Contractor shall not be liable for liquidated damages or delays caused by the removal or relocation of utilities when such removal or relocation is the responsibility of RCEA or RCEA of the utility under Government Code Section 4215.

### ***B-39 Force Majeure***

Each Party shall be excused from performance and shall not be considered to be in breach with respect to any obligation hereunder other than any obligation to pay money due and owing, if and to the extent that such Party's failure of, or delay in, performance is due to a Force Majeure Event; *provided:*

- (1) such Party gives the other Party notice describing the particulars of the Force Majeure Event as soon as is reasonably practicable and in any event within five (5) Business Days after the discovery of the Force Majeure Event;
- (2) the suspension of performance is of no greater scope and of no longer duration than is reasonably required by the Force Majeure Event;
- (3) the Party (i) uses all reasonable endeavours to overcome or mitigate the effects of such occurrence, and (ii) minimizes and contains all costs and expenses attendant to or arising from such occurrence;
- (4) when the Party is able to resume performance of the affected obligations, such Party shall notify the other Party and promptly resume performance;
- (5) the Party seeking relief under this Section (6)0 shall be entitled to a Change Order adjusting the Project Schedule; and
- (6) If either Party is substantially prevented from fulfilling its obligations as a result of a Force Majeure Event for more than one hundred and eighty (180) days in the

aggregate, then either Party may terminate this Agreement by notice to the other delivered within thirty (30) days after the expiration of such one hundred and eighty (180) day period, and Tesla shall be entitled to the value of all Work performed by Tesla up to the date of such termination and for which Tesla has not previously been paid, plus payment for progress achieved on any partially completed Work, provided that in each case such Work conforms to the requirements of this Agreement, plus demobilization costs.

#### ***B-40 Clean-up***

During the progress of the Work, the Contractor shall maintain the site and related structures and equipment in a clean, orderly condition and free from unsightly accumulation of rubbish. Upon completion of Work and before the final estimate is submitted, the Contractor shall at its own cost and expense remove from the vicinity of the Work all plants, buildings, rubbish, unused Work materials, concrete forms, and temporary bridging and other like materials, belonging to it or used under its direction during the construction, and in the event of its failure to do so, the same may be removed by RCEA after ten (10) calendar days' notice to the Contractor, such removal to be at the expense of the Contractor. Where the construction has crossed yards or driveways, they shall be restored by the Contractor to the complete satisfaction of RCEA, at the Contractor's expense.

### **ARTICLE IV. LEGAL RELATIONS AND RESPONSIBILITY**

#### ***B-41 Compliance with Laws - Permits, Regulations, Taxes***

Contractor is an independent contractor and shall at its sole cost and expense comply with all laws, rules, ordinances and regulations of all governing bodies having jurisdiction over the Work, obtain all necessary permits and licenses therefore, pay all manufacturers' taxes, sales taxes, use taxes, processing taxes, and all Federal and state taxes, insurance and contributions for social security and unemployment which are measured by wages, salaries or any remuneration paid to Contractor's employees, whether levied under existing or subsequently enacted laws, rules or regulations. Contractor shall also pay all property tax assessments on materials or equipment used until acceptance by RCEA. If any discrepancy or inconsistency is discovered in the Plans or Specifications, or in this Contract in relation to any such law, rule, ordinance, regulation, order or decree, the Contractor shall forthwith report the same to RCEA in writing. It shall also protect and indemnify all of RCEA's officers, agents, and servants against any claim or liability arising from or based upon the violation of any such law, rule, ordinance, regulation, order or decree, whether by the Contractor itself or by its employees. Particular attention is called to the following:



(1) Without limitation, materials furnished and performance by Contractor hereunder shall comply with Safety Orders of the Division of Industrial Safety, State of California, Federal Safety regulations of the Bureau of Labor, Department of Labor, and any other applicable Federal regulations.

(2) The Contractor, upon request, shall furnish evidence satisfactory to RCEA that any or all the foregoing obligations have been or are being fulfilled. The Contractor warrants to RCEA that it is licensed by all applicable governmental bodies to perform this Contract and will remain so licensed throughout the progress of the work, and that it has, and will have, throughout the progress of the work, the necessary experience, skill and financial resources to enable it to perform this Contract.

(3) Project permits will be provided to the awarded contractor. The permit conditions have been included in the appendices of these specifications.

#### ***B-42 Prevailing Wage***

(a) The Work is subject to payment of minimum prevailing wages, compliance monitoring, and enforcement by the Department of Industrial Relations (“DIR”). The statutory provisions for penalties for failure to comply with state’s wage and hour laws will be enforced (Labor Code § 1813).

(b) Per Labor Code Section 1771.5 the Contractor and subcontractors shall maintain and furnish, at a designated time, a certified copy of each weekly payroll containing a statement of compliance signed under the penalty of perjury. RCEA will audit payroll records to verify compliance and will withhold contract payments when payroll records are delinquent or inadequate. Withheld contract payments shall be equal to the amount of underpayment and applicable penalties when, after investigation, it is established that underpayment has occurred.

(c) The Contractor shall forfeit as penalty to RCEA the sum of fifty dollars (\$50) for each calendar day or portion thereof for each worker (whether employed by the Contractor or Subcontractor) paid less than the stipulated prevailing rates for any work done under the Contract in violation of the provisions of the Labor Code and in particular, Section 1775.

(c) RCEA will not recognize any claims for additional compensation because of the payment of the wages set forth in the Contract Documents. The possibility of wage increases is one of the elements to be considered by the Contractor in determining its proposal and will not under any circumstances be considered as the basis of a claim against RCEA.

(d) The Contractor shall always keep posted at the jobsite current wage rates in effect for this Work.

#### ***B-43 Labor Discrimination***

Attention is directed to Section 1735, of the Labor Code, which reads as follows:

No discrimination shall be made in the employment of persons upon public works because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or sex of such persons, except as provided in Section 12940 of the Government Code, and every Contractor for public works violating this section is subject to all the penalties imposed for a violation of this chapter.

#### ***B-44 Eight-Hour Day Limitation***

(a) In accordance with the provisions of the Labor Code, and in particular, Sections 1810 to 1815 thereof, inclusive, eight hours labor shall constitute a day's work, and no worker, in the employ of said Contractor, or any Subcontractor, doing or contracting to do any part of the work contemplated by this Contract, shall be required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation of those provisions; provided that subject to Labor Code Section 1815, a worker may perform work in excess of either eight (8) hours per day or forty (40) hours during any one week upon compensation for all hours worked in excess of eight (8) hours per day or forty (40) hours during any one week at not less than the rate of compensation required by Labor Code Section 1815.

(b) The Contractor and each Subcontractor shall also keep an accurate record showing the names, addresses, social security numbers, work classifications, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by the Contractor and by the Subcontractor in connection with the work specified herein, which record shall be open at all reasonable hours to the inspection of RCEA, State and Federal officers and agents; and it is hereby further agreed that, except as provided in (a) above, the Contractor shall forfeit as a penalty to RCEA the sum of fifty dollars (\$50) for each worker employed in the performance of this Contract by it or by any Subcontractor under it for each calendar day during which such worker is required or permitted to labor more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation of Sections 1810 through 1815.

#### ***B-45 Compliance with State Requirements for Employment of Apprentices***

The Contractor's attention is directed to Section 1777.5 through 1777.2 of the Labor Code; provisions of those Sections pertaining to employment of registered apprentices are hereby incorporated by reference into these Specifications. As applicable, the Contractor or any Subcontractor employed by it in the performance of the Contract work shall take such actions as necessary to comply with the provisions of Section 1777.5.

#### ***B-46 Underground Utilities***

In accordance with Government Code Section 4215, the Contractor shall be compensated for the costs of locating, repairing damage not due to the failure of the Contractor to exercise reasonable care, and removing or relocating existing main or trunk line utility facilities not indicated in the Contract Plans and Specifications with reasonable accuracy, and for the equipment on the project necessarily idled during such work; provided that the Contractor shall first notify RCEA before commencing Work on locating, repairing damage to, removing or relocating such utilities.

#### ***B-47 Water Pollution***

The Contractor shall exercise every reasonable precaution to protect streams, lakes, reservoirs, and canals from pollution with fuels, oils, bitumens, calcium chloride, and other harmful materials and shall conduct and schedule its operations so as to avoid or minimize muddying and silting of said streams, lakes, reservoirs, and canals. Care shall be exercised to preserve vegetation beyond the limits of construction. The Contractor shall comply with Section 5650 of the California Fish and Wildlife Code and all other applicable statutes and regulations relating to the prevention and abatement of water pollution.

#### ***B-48 Payment of Taxes***

The Contract prices paid for the work shall include full compensation for all taxes which the Contractor is required to pay, whether imposed by Federal, State, or local governments.

#### ***B-49 Permits and Licenses***

Except as otherwise provided in this Contract, the Contractor shall procure any additional permits and licenses, pay all charges and fees, and give all notices necessary and incident to the lawful prosecution of the work.

#### ***B-50 Patents***

The Contractor shall pay all applicable royalties and license fees and assume all costs arising from the use of patented materials, equipment and devices. The Contractor shall defend all suits or claims for infringement of any patent rights and save RCEA and Owner and their duly authorized representatives harmless from loss on account thereof, except that RCEA shall be responsible for any such loss when a particular process, design, or the product of a particular manufacturer or manufacturers is specified; however if the Contractor has reason to believe that the design, process or product specified is an infringement of a patent, he shall be responsible for such loss unless he promptly gives such information to RCEA.

#### ***B-51 Public Convenience***

- (a) This section defines the Contractor's responsibility regarding convenience of the public and public traffic in connection with its operations.
- (b) The Contractor shall so conduct its operations as to offer the least possible obstruction and inconvenience to the public and it shall have under construction no greater length or amount of work than it can prosecute properly with due regard to the rights of the public.
- (c) Unless otherwise provided in the Contract Documents, all public traffic shall be permitted to pass through the work with as little inconvenience and delay as possible.
- (d) Spillage resulting from hauling operations along or across any publicly traveled way shall be removed immediately by the Contractor at its expense.
- (e) Construction operations shall be conducted in such a manner as to cause as little inconvenience as possible to abutting property owners.
- (f) Convenient access to driveways, houses and buildings along the line of the work shall be maintained and temporary approaches to crossings or intersecting highways shall be provided and kept in good condition. When the abutting property owner's access across the right-of-way line is to be eliminated, or to be replaced under the Contract by other access facilities, the existing access shall not be closed until the replacement access facilities are usable.
- (g) Water shall be supplied if ordered by RCEA for the alleviation or prevention of dust nuisance as provided in the Contract Documents.

(h) In order to expedite the passage of public traffic through or around the work and where ordered by RCEA, the Contractor shall install signs, lights, flares, barricades, and other facilities for the sole convenience and direction of public traffic. Also, where directed by RCEA, the Contractor shall provide and station competent flag persons whose sole duties shall consist of directing the movement of public traffic through or around the work. The cost of furnishing and installing such signs, lights, flares, barricades, and other facilities, and the cost of providing and stationing such flag persons, all for the convenience and direction of public traffic, will be considered as included in the Contract price and no additional compensation will be allowed.

(i) Flag persons and guards, while assigned to traffic control, shall perform their duties and shall be provided with the necessary equipment in accordance with the current "Instructions to Flagmen" of the California Department of Transportation. The equipment shall be furnished and kept clean and in good repair by the Contractor at its expense.

### ***B-52 Safety***

(a) General - The Contractor shall be solely and completely responsible for the conditions of the job site, including safety of all persons and property during performance of the Work. This requirement shall apply continuously and not be limited to normal working hours. Safety provisions shall conform to all applicable Federal, State, and local laws, ordinances, and codes, and to the rules and regulations established by the California Division of Industrial Safety, and to other rules of law applicable to the work.

(b) The services of RCEA in conducting construction review of the Contractor's performance is not intended to include review of the adequacy of the Contractor's work methods, equipment, bracing or scaffolding or safety measures, in, on, or near the construction site, and shall not be construed as supervision of the actual construction nor make RCEA responsible for providing a safe place for the performance of work by the Contractor, subcontractors, or suppliers; or for access, visits, use work, travel or occupancy by any person.

(c) The Contractor shall carefully instruct all personnel working in potentially hazardous work areas as to the potential dangers and shall provide such necessary safety equipment and instruction as is necessary to prevent injury and damage to property. The Contractor shall appoint for the duration of this Contract, a qualified supervisor employee to develop and/or supervise the Contractor's job safety program that will effectively implement the safety provisions of the above agencies.

The Contractor, as a part of their safety program, shall maintain at its office or other well-known place at the job site, safety equipment applicable to the Work as prescribed by the aforementioned authorities, all articles necessary for giving first aid to the injured, and shall establish the procedure for the immediate removal to a hospital or a doctor's care of persons (including employees) who may be injured on the job site.

If death or serious injuries or serious damages are caused, the accident shall be reported immediately by telephone or messenger to both RCEA. In addition, the Contractor must promptly report in writing to RCEA all accidents whatsoever arising out of, or in connection with, the performance of the Work whether on, or adjacent to, the site, giving full details and statements of witnesses.

If any claim is made by anyone against the Contractor or any subcontractor on account of any accident, the Contractor shall promptly report the facts in writing to RCEA, giving full details of the claim.

(d) All Work and materials shall be in strict accordance with all applicable State, Federal and local laws, rules, regulations, and codes.

(e) Nothing in this Contract is to be construed to permit work not conforming to governing law. When Contract Documents differ from governing law, the Contractor shall furnish and install the higher standards called for without extra charge. All equipment furnished shall be grounded and provided with guards and protection as required by safety codes. Where vapor-tight or explosion-proof electrical installation is required by law, this shall be provided.

(f) Shoring and Trench Safety Plan - Attention is directed to Section 832 of the Civil Code of the State of California relating to lateral and subjacent support, and the Contractor shall comply with this law.

(g) Trenching and Worker Protection - In accordance with Section 6705 of the State Labor Code, the Contractor shall submit to RCEA specific plans to show details of provisions for worker protection from caving ground. Not less than thirty (30) days before beginning excavation for any trench or trenches five (5) feet or more in depth required under this Contract, the Contractor shall furnish to RCEA working drawings of its trench safety plan. The trench safety plan working drawings shall be detailed plans showing the design of shoring, bracing, sloping or other provisions to be made for worker protection from the hazard of caving ground. If such plan varies from the shoring system standards established by the Construction Safety Orders of the California Department of Industrial Relations or the Federal Safety and Health Regulations for Construction of the Occupational Safety and Health Administration, Department of Labor, the plan shall be prepared by a registered civil or structural engineer. In no event shall the Contractor use a shoring, sloping, or protective system less effective than that required by said Construction Safety Orders, or less effective than that required by said Federal Safety and Health Regulations for Construction. Submission of this plan in no way relieves the Contractor from the requirement to maintain safety in all operations performed by it or its Subcontractors.

(h) Hazardous Wastes and Unforeseen Conditions - In accordance with Section 7104 of the State Public Contract Code, if the work contemplated hereunder involves digging trenches or other excavations that extend deeper than four feet below the surface, the Contractor shall promptly, and before the following conditions are disturbed, notify RCEA, in writing, of any: (i) material that the Contractor believes may be material that is hazardous waste, as defined in Section 25117 of the Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law; (ii) Subsurface or latent physical conditions at the site differing from those indicated; or (iii) unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract. RCEA shall promptly investigate the conditions, and if it finds that the conditions do materially so differ, or do involve hazardous waste, and cause a decrease or increase in the Contractor's cost of, or the time required for, performance of any part of the Work shall issue a change order under the procedures described herein. In the event that a dispute arises between RCEA and the Contractor whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in the Contractor's cost of, or time required for, performance of any part of the Work, the Contractor shall not be excused from any scheduled completion date provided for herein, but shall proceed with all Work to be

performed hereunder. The Contractor shall retain any and all rights provided either by contract or by law which pertain to the resolution of disputes and protests between RCEA and Contractor.

(i) The Contractor shall perform all Work in a fire-safe manner. He shall supply and maintain onsite adequate firefighting equipment capable of extinguishing incipient fires. The Contractor shall comply with applicable federal, state, and local fire prevention regulations and where the regulations do not cover, with applicable parts of the National Fire Prevention Standard for "Safeguarding Building Construction Operations," (NFPA No. 241).

### ***B-53 Protection of Person and Property***

(a) The Contractor shall take whatever precautions are necessary to prevent damage to all existing improvements, including above ground and underground utilities, trees, shrubbery that is not specifically shown to be removed, fences, signs, mailboxes, survey markers and monuments, buildings, structures, RCEA's property, adjacent property, and any other improvements or facilities within or adjacent to the work. If such improvements or property are injured or damaged by reason of the Contractor's operations, they shall be replaced or restored, at the Contractor's expense, to a condition at least as good as the condition they were in prior to the start of the Contractor's operations.

(b) The Contractor shall adopt all practical means to minimize interference to traffic and public inconvenience, discomfort or damage. The Contractor shall protect against injury any pipes, conduits or other structures, crossing the trenching or encountered in the work and shall be responsible for any injury done to such pipes or structures, or damage to property resulting therefrom. The Contractor shall support or replace any such structures without delay and without any additional compensation to the entire satisfaction of RCEA. All obstructions to traffic shall be guarded by barriers illuminated at night. The Contractor shall be responsible for all damage to persons and property directly or indirectly caused by its operations and, under all circumstances, the Contractor must comply with the laws and regulations of the County and the State of California relative to safety of persons and property and the interruption of traffic and the convenience of the public within the respective jurisdictions.

(c) The Contractor is cautioned that it must replace all improvements in rights-of-way and within the public streets to a condition equal to what existed prior to the Contractor's entry onto the job.

(d) Type and time of construction required at any road subject to interference by Contract work will be determined by those authorities responsible for maintenance of said road. It shall be the responsibility of the Contractor to determine the nature and extent of all such requirements, including provision of temporary detours as required; however, the construction right-of-way obtained by RCEA at affected roadways will be adequate for provision of all required detours. As required at any road crossing, the Contractor shall provide all necessary flag persons, guardrails, barricades, signals, warning signs and lighting to provide for the safety of existing roads and detours. Immediately after the need for temporary detours ceases, or when directed, the Contractor shall remove such detours and perform all necessary cleanup Work, including replacement of fences, and removal of pavement. Included shall be all necessary replacement of existing roadway appurtenances, grading work, soil stabilization and dust control measures, as required and directed. The cost of all work specified under this Section shall be borne by the Contractor.

(e) The Contractor shall examine all bridges, culverts, and other structures over which it will move its materials and equipment, and before using them, it shall properly strengthen such structures where necessary. The Contractor shall be responsible for any and all injury or damage to such structures caused by reason of its operations.

#### ***B-54 Responsibility for Repair of Facilities***

All public or private facilities, including but not limited structures, telephone cables, roadways, parking lots, private drives, levees and embankments disturbed during construction of the Work shall be repaired and/or replaced by the Contractor to match facilities existing prior to construction. In addition, the Contractor shall be responsible for any settlement damage to such facilities or adjoining areas for a period of one year after acceptance of such required facilities.

#### ***B-55 Resolution of Construction Claims***

(a) For any claim arising under this contract, the following procedures will apply:

(1) The claim must be in writing and include the documents necessary to substantiate the claim. Claims must be filed on or before the day of final payment. Nothing in this subsection is intended to extend the time limit or supersede notice requirements for the filing of claims as set forth elsewhere in this contract.

(b) The Contractor shall proceed with the work in accordance with the plans and specifications and determinations and instructions of RCEA during the resolution of any claims disputes.

#### ***B-56 RCEA's Repair***

In the event the Contractor refuses or neglects to make good any loss or damage for which the Contractor is responsible under this Contract, RCEA may itself, or by the employment of others, make good any such loss or damage, and the cost and expense of doing so, including any reasonable engineering, legal and other consultant fees, and any costs of administrative and managerial services, shall be charged to the Contractor. Such costs and expenses may be deducted by RCEA from claims for payment made by the Contractor for work completed or remaining to be completed.

#### ***B-57 Antitrust Claim Assignment***

In entering into a public works contract or a subcontract to supply goods, services, or materials pursuant to this contract, the Contractor and all subcontractors shall offer and agree to assign to RCEA 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 subcontract. This assignment shall be made and become effective at the time RCEA tenders final payment to the Contractor, without further acknowledgement by the parties.

### ***B-58 Waiver of Right to Rescind for Material Breach***

The Contractor agrees that it can be adequately compensated by money damages for any breach of this Contract which may be committed by RCEA and hereby agrees that no default, act, or omission of RCEA, except for failure to make progress payments as a required by Section B-67, shall constitute a material breach of the Contract entitling the Contractor to cancel or rescind the provisions of this Contract or (unless RCEA shall so consent or direct in writing) to suspend or abandon performance of all or any part of the work. The Contractor hereby waives any and all rights and remedies to which it might otherwise be or become entitled, save only its right to money damages.

### ***B-59 Contractor's License Notice***

CONTRACTORS ARE REQUIRED BY LAW TO BE LICENSED AND REGULATED BY THE CONTRACTORS' STATE LICENSE BOARD WHICH HAS JURISDICTION TO INVESTIGATE COMPLAINTS AGAINST CONTRACTORS OF A COMPLAINT IF FILED WITHIN THREE (3) YEARS OF THE DATE OF THE ALLEGED VIOLATION. ANY QUESTIONS CONCERNING A CONTRACTOR MAY BE REFERRED TO THE REGISTRAR, CONTRACTORS' STATE LICENSE BOARD, 9835 GOETHE ROAD, SACRAMENTO, CALIFORNIA. MAILING ADDRESS: P.O. BOX 26000, SACRAMENTO, CALIFORNIA 95826.

## **ARTICLE V. INSURANCE AND LIABILITY**

### ***B-60 Insurance***

(a) Neither the Contractor nor any Subcontractors shall commence any work until all required insurance has been obtained at their own expense. Such insurance must have the approval of RCEA as to limit, form, and amount. All required insurance must be written by an admitted company licensed to do business in the State of California at the time the policy is issued. All required insurance shall be equal to or exceed an A VIII rating as listed in Best's Insurance Guide's latest edition. Required documentation of such insurance shall be furnished to RCEA at the time Contractor returns the executed Contract or within 10 days of receipt of Notice of Award.

(b) Any insurance bearing on adequacy of performance shall be maintained after completion of the project for the full guarantee period.

(c) The Contractor shall furnish RCEA with original endorsements effecting coverage for all policies required by the Contract. The Contractor shall not permit any Subcontractor identified in the Designation of Subcontractors form to commence work on this project until such Subcontractor has furnished RCEA with original endorsements effecting coverage for all insurance policies required by the Contract. The endorsements shall be signed by a person authorized by the insurer to bind coverage on its behalf. The endorsements are to be on forms provided by RCEA. As an alternative to RCEA's forms, the Contractor's insurer may, subject to the approval of RCEA, provide complete, certified copies of all



required insurance policies, including endorsements effecting the coverage required by this paragraph. The Contractor agrees to furnish one copy of each policy to RCEA, and additional copies as requested in writing, certified by an authorized representative of the insurer.

(d) All of the Contractor's policies shall contain an endorsement providing that written notice shall be given to RCEA at least thirty (30) days prior to termination, cancellation, or reduction of coverage in the policy.

(e) Any policy or policies of insurance that the Contractor elects to carry as insurance against loss or damage to its construction equipment and tools shall include a provision therein providing a waiver of the insurer's right to subrogation against RCEA.

(f) The requirements as to the types, limits, and RCEA's approval of insurance coverage to be maintained by the Contractor are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the Contractor under the Contract.

(g) In addition to any other remedy RCEA may have, if the Contractor or any of the subcontractors fails to maintain the insurance coverage as required in this Section, RCEA may obtain such insurance coverage as is not being maintained, in form and amount substantially the same as required herein, and RCEA may deduct the cost of such insurance from any amounts due or which may become due the Contractor under this Contract.

(h) The Contractor and all subcontractors shall, at their expense, maintain in effect at all times during the performance or work under the Contract not less than the following coverage and limits of insurance, which shall be maintained with insurers and under forms of policy satisfactory to RCEA. The maintenance by the Contractor and all subcontractors of the following coverage and limits of insurance is a material element of this Contract. The failure of the Contractor or any subcontractor to maintain or renew coverage or to provide evidence of renewal may be treated by RCEA as a material breach of this contract.

(1) Worker's Compensation and Employer's Liability Insurance.

(i) Worker's Compensation - Insurance to protect the Contractor or subcontractor from all claims under Worker's Compensation and Employer's Liability Acts, including Longshoremen's and Harbor Worker's Act. Such coverage shall be maintained, in type and amount, in strict compliance with all applicable State and Federal statutes and regulations. The Contractor shall execute a certificate in compliance with Labor Code Section 1861.

(ii) Within ten (10) calendar days following issuance of the Notice of Award of the Contract, the Contractor shall submit to Project Manager electronically in order to send to the District satisfactory proof that the Contractor and all Subcontractors it intends to employ have procured, for the period covered by the Contract, full Workers' Compensation insurance and employer's liability with limits of at least \$1,000,000 with an insurance carrier satisfactory to the District for all persons whom the Contractor may employ in carrying out the work contemplated under this Contract in accordance with the Workers' Compensation Insurance and Safety Act, approved May 26, 1913, and all acts amendatory or supplemental thereto (the "Act"). Such insurance shall be maintained in full force and effect during the period covered by the Contract. In the event the Contractor is self-insured, Contractor shall furnish a Certificate of Permission to Self-Insure, signed by the Department of Industrial Relations Administration of Self-Insurance, Sacramento, California.

(iii) If the Contractor fails to maintain such insurance, the District may take out worker's compensation insurance to cover any compensation which the District might be liable to pay under the provisions of the Act, by reason of any employee of the Contractor being injured or killed, and deduct and retain the amount of the premiums for such insurance from any sums due the Contractor under the Contract, or otherwise recover that amount from the Contractor or the Surety.

(iv) The policies represented by the certificates shall be endorsed with a Waiver of Subrogation and must contain the provision (and the certificates must so state) that the insurance cannot be canceled until thirty (30) days after written notice of intended cancellation has been given to the District by certified mail.

(2) Claims Against RCEA - If an injury occurs to any employee of the Contractor or any of the subcontractors for which the employee or its dependents, in the event of its death, may be entitled to compensation from RCEA under the provisions of the said Acts, or for which compensation is claimed from RCEA, there will be retained out of the sums due the Contractor under this Contract, an amount sufficient to cover such compensation as fixed by said Acts, until such compensation is paid or it is determined that no compensation is due. If RCEA is required to pay such compensation, the amount so paid will be deducted and retained from such sums due, or to become due the Contractor.

(3) Comprehensive General and Automobile Liability Insurance - The insurance shall include, but shall not be limited to, protection against claims arising from death, bodily or personal injury, or damage to property resulting from actions, failures to act, operations or equipment of the insured, or by its employees, agents, consultants, or by anyone directly or indirectly employed by the insured. Insurance shall be written with a limit of liability not less than \$1,000,000 for all damages arising out of bodily injury, including death, at any time resulting therefrom, sustained by any one person in any one accident; and a limit of liability of not less than \$1,000,000 aggregate for any damages sustained by two or more persons in any one accident. Insurance shall be written with a limit of liability of not less than \$500,000 for all property damage sustained by one person in any one accident; and a limit of liability not less than \$500,000 aggregate for any such property damage sustained by two or more persons in any one accident. Any deductibles must be declared to and approved by RCEA. At the option of RCEA, either: the insurer shall reduce or eliminate such deductibles as respects the entity, its officers, officials, employees and volunteers; or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

The comprehensive general and automobile liability insurance coverage shall also include the following:

(i) The certificate(s) for ***both the General Liability Policy(ies) and the Automobile Liability Policy*** specified above must state that the insurance is under an occurrence based, and not claims made, policy(ies) and shall be endorsed with the following specific language:

“RCEA and its consultants, and each of their officers, employees, and agents are named as additional insured for all liability arising out of the operations by or on behalf of the named insured, and this policy protects the additional insured, its officers, agents and employees against liability for bodily injuries, deaths or property damage or destruction arising in any respect directly or indirectly in the performance of the Contract.”

(ii) "Cross Liability" or "Severability of Interest" clause.

(iii) Broad Form Property Damage, Personal Injury, Contractual Liability, Protective Liability Completed Operations coverages and elimination of any exclusion regarding loss or damage to property caused by explosion or resulting from collapse of buildings or structures or damage to property underground, commonly referred to by insurers as the "XCU" hazards.

(iv) Provision or endorsement stating that such insurance, subject to all its other terms and conditions, applies to the liability assumed by the Contractor under the Contract, including, without limitation, that set forth in Section B-60, Indemnity and Litigation Costs.

(v) Provision or endorsement stating that any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to RCEA, its officers, officials, employees, or volunteers.

(vi) The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

(4) Builder's Risk or Installation Floater "All-Risk" Insurance

Not required for this contract.

***B-61 Indemnity and Litigation Cost***

(a) Promptly upon execution of the Contract, the Contractor specifically obligates itself and hereby agrees to protect, hold free and harmless, defend and indemnify RCEA and its consultants, and each of their officers, officials, employees and agents, from and against any and all liability, penalties, costs, losses, damages, expenses, causes of action, claims or judgments, including without limitation attorneys' fees and other costs of litigation, which arise out of or are in any way connected with the Contractor's, or its subcontractors' or suppliers', performance of work under this Contract or failure to comply with any of the obligations contained in the Contract. This indemnity shall not extend, however, to attorney fees and costs incurred by RCEA in prosecuting or defending against the Contractor in any proceeding under Section B-8, and shall imply no reciprocal right of the Contractor in any action on the contract pursuant to California Civil Code section 1717 or section 1717.5. To the extent legally permissible, this indemnity and hold harmless agreement by the Contractor shall apply to any acts or omissions, whether active or passive, on the part of the Contractor or its agents, employees, representatives, or Subcontractor's agents, employees and representatives, resulting in liability, except such loss which is caused by the sole negligence or willful misconduct of RCEA.

(b) In any and all claims against RCEA and its consultants, and each of their officers, employees and agents by any employee of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation under this Section shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or any Subcontractor under Worker's Compensation statutes, disability benefit statutes or other employee benefit statutes.

## ***B-62 Protection of Work***

(a) The Contractor shall be responsible for the care of all work until completion and final acceptance; and the Contractor shall, at its own expense replace damaged or lost material and repair damaged parts of the work or the same may be done at the Contractor's expense by RCEA and the Contractor and its sureties shall be liable therefore. The Contractor shall make its own provisions for properly storing and protecting all material and equipment against theft, injury, or damage from any and all causes. Damaged material and equipment shall not be used in the work. The Contractor shall take all risks from floods and casualties except as provided by law, and shall make no charge for the restoration of such portions of the work as may be destroyed or damaged by flood or other casualties or because of danger from flood or other casualties or for delays from such causes. The Contractor may, however, be allowed a reasonable extension of time on account of such delays, subject to the conditions hereinbefore specified. The Contractor shall not be responsible for the cost, in excess of five percent (5%) of the contracted amount, of repairing or restoring damage to the Work, if the damage was proximately caused by an earthquake in excess of a magnitude of 3.5 on the Richter Scale or by tidal waves; provided that the work damaged was built in accordance with accepted and applicable building standards, and the plans and specifications of RCEA.

(b) The Contractor shall effectively secure and protect adjacent property and structures, livestock, crops, and other vegetation. If applicable, the Contractor shall open fences on or crossing the right-of-way and install temporary gates of sound construction thereon to prevent the escape of livestock. Adjacent fence posts shall be adequately braced to prevent the sagging or slackening of the wire. Before such fences are opened, the Contractor shall notify RCEA or tenant of the property and, where practicable, the opening of the fence shall be in accordance with the wishes of said owner or tenant. The Contractor shall be responsible that no loss or inconvenience shall always accrue to RCEA or tenant by virtue of its fences having been opened or the gate not having been either shut or attended. Where special types of fences are encountered, the Contractor shall install temporary gates made of similar materials and of suitable quality to serve the purposes of the original fences. In all cases where the Contractor removes fences to obtain Work room, it shall provide and install temporary fencing as required, and on completion of construction shall restore the original fence to the satisfaction of RCEA. All costs of providing, maintaining and restoring gates and fencing shall be borne by the Contractor. It shall provide and maintain all passageways, guard fences, lights and other facilities for protection required by public authority or local conditions.

(c) The Contractor shall use extreme care during construction to prevent damage from dust to crops and adjacent property. The Contractor, at its own expense, shall provide adequate dust control for the right-of-way and take other preventive measures as directed by RCEA.

(d) The Contractor shall be responsible for all damage to any property resulting from trespass by the Contractor or its employees in the course of their employment, whether such trespass was committed with or without the consent or knowledge of the Contractor.

(e) The Contractor shall see that the work site is kept drained and free of all ground water and any other water which may impede the progress or execution of the Contract Work.

(f) The Contractor shall be responsible for any damage caused by drainage or water runoff from construction areas and from construction plant areas. In an emergency affecting the safety of life, or

of the Work, or of adjoining property, the Contractor, without special instruction or authorization from RCEA, is hereby permitted to act at the Contractor's discretion to prevent such threatened loss or injury, and it shall so act without appeal if so instructed or authorized. Any compensation claimed by the Contractor on account of emergency work shall be determined as specified under Section B-3. Should RCEA deem an emergency condition to exist, the Contractor shall immediately do those things and take those steps ordered by RCEA. The decision of RCEA in this respect shall be final and conclusive. Any claims for compensation made by the Contractor on account of emergency work shall be determined as specified under Section B-3.

(g) Except as provided by Government Code Section 4215, the Contractor shall be responsible for the removal, relocation and protection of all public and private utilities, including irrigation facilities in the nature of utilities, located on the site of the construction project if and to the extent that the same are identified in the Contract Documents, and the Contractor shall not be entitled to any extension of time or claim for damages for extra compensation in connection therewith. If and to the extent that such utilities or facilities are not identified in the Contract Documents, as between the Contractor and RCEA, RCEA will be responsible for the cost of their removal, relocation or protection, as the case may be, but the Contractor shall perform any such work in conformance with applicable provisions of Sections B-3 and B-4, if so directed by RCEA and in such situation the Contractor shall not be responsible for delay in completion of the project caused by the failure of RCEA or RCEA of the utility to provide for such removal or relocation. If the Contractor, while performing the Contract, discovers utility or irrigation facilities not identified by RCEA in the Contract Documents, it shall immediately notify RCEA in writing.

(h) Subject to the provisions of this Section, where the Work to be performed under the Contract crosses or otherwise interferes with existing streams, watercourses, canals, farm ditches, pipelines, drainage channels, or water supplies, the Contractor shall provide for such watercourse or pipelines and shall perform such construction during the progress of the work so that no damage will result to either public or private interests, and the Contractor shall be liable for all damage that may result from failure to so provide during the progress of the work.

### ***B-63 No Personal Liability***

Neither RCEA, nor any of their other officers, agents, or employees nor any other public office shall be personally responsible for any liability arising under the Contract, except such obligations as are specifically set forth herein.

## ARTICLE VI. MEASUREMENT AND PAYMENT

### ***B-64 Measurement of Quantities***

Where the Contract provides for payment on a lump sum price basis, the Contractor shall submit a price breakdown to RCEA immediately after award of the Contract. The price breakdown as agreed upon between the Contractor and RCEA shall be used for preparing future estimates for partial payments to the Contractor and shall list the major items of Work and a price for each item. Overhead and other general costs and profit shall be prorated to each item so that the total of all items equals the lump sum price. The price breakdown shall be subject to the approval of RCEA and Contractor may be required to verify the prices for any or all items. Where the Contract provides for payment on a unit price basis, the quantities of Work performed will be computed by RCEA based on measurements taken by RCEA.

Whenever the estimated quantities of Work to be done and materials to be furnished under this contract are shown in any of the documents including the Proposal, they are given for use in comparing bids and the right is especially reserved, except as herein or otherwise specifically limited, to increase or diminish them as may be deemed reasonably necessary or desirable by RCEA to complete the Work contemplated by this contract and such increase or diminution shall in no way violate this Contract, nor shall any such increase or diminution give cause for claims, liability for damage or adjustment to the Contract time bid price.

### ***B-65 Scope of Payment***

(a) The Contractor shall accept the compensation provided in the Contract as full payment for furnishing all labor, materials, tools, equipment, and incidentals necessary to the completed work and for performing all work contemplated and embraced under the Contract; also for loss or damage arising from the nature of the work, or from the action of the elements, or from any unforeseen difficulties which may be encountered during the prosecution of the work until the acceptance by RCEA and for all risks of every description connected with the prosecution of the work, also for all expenses incurred in consequence of the suspension or discontinuance of the Work as provided in the Contract; and for completing the work according to the specifications and plans. Neither the payment of any estimate nor of any retained percentage shall relieve the Contractor of any obligation to make good any defective work or material.

(b) No compensation will be made in any case for loss of anticipated profits. Increased or decreased work involving supplemental agreements will be paid for as provided in such agreements.

## ***B-66 Progress Estimate***

At least ten (10) days before each progress payment falls due (but not more often than once a month), the Contractor will submit to RCEA a partial payment estimate filled out and signed by the Contractor covering the work performed during the period covered by the partial pay estimate and supported by such data as RCEA may reasonably require. If payment is requested on the basis of materials and equipment not incorporated in the work but delivered and suitably stored at or near the site, the partial payment estimate shall also be accompanied by such supporting data, satisfactory to RCEA accounting, as will establish RCEA's title to the material, and equipment and protect its interest therein, including, applicable insurance. RCEA will within seven (7) days after receipt of each partial payment estimate either process payment or return the estimate to the Contractor indicating in writing its reasons for refusing to approve payment. In the latter case, the Contractor may make the necessary corrections and resubmit the partial pay estimate.

Payroll certification forms provided by the Contractor and fully executed shall be filed with RCEA at the time of submission of each partial payment estimate and also when the claim for final payment is submitted. Wage Report forms shall be completed and submitted as set forth in Articles IV and V.

## ***B-67 Progress Payments***

(a) RCEA will approve all partial payments within 15 days upon receipt of an undisputed, properly submitted progress estimate from the Contractor, RCEA shall act in accordance with the following:

(1) Each payment request shall be reviewed by RCEA as soon as practicable after receipt for the purpose of determining that the progress estimate is a proper payment request.

(2) Any payment request determined not to be a proper payment request suitable for payment shall be returned to the Contractor as soon as practicable but not later than seven (7) days after receipt. A request returned pursuant to this paragraph shall be accompanied by a document setting forth in writing the reasons why the payment request is not proper.

(b) Except as otherwise provided herein, RCEA will pay the Contractor ninety five percent (95%) of the amount of each progress estimate within thirty (30) days.

(c) When, in the judgment of RCEA, the work is not proceeding in accordance with the provisions of the Contract, or when in its judgment the total amount of the work done since the last estimate amounts to less than \$1,000, no pay estimate will be prepared and no progress payment will be made.

(d) No progress estimate or payment shall be considered to be an approval or acceptance of any work, materials, or equipment. Estimated amounts and values of work done and materials and equipment furnished will be conformed with actual amounts and values as they become available in subsequent progress estimates, progress payments and the final estimate and payment. All estimates and payments will be subject to correction in subsequent progress estimates and payments and the final estimate and payment.

(f) RCEA requires that any payments due to subcontractors for a portion of the work satisfactorily completed shall be made by Contractor to subcontractors within fifteen (15) days of RCEA's payment to Contractor. Failure to make such payments in a timely fashion may result in RCEA issuing future progress payments by joint check to the Contractor and subcontractors.

(g) It is mutually agreed between the parties to the Contract that no payments made under the Contract, including progress payments and the final payment, shall be evidence of the performance of the Contract, either wholly or in part, and no payment shall be construed to be an acceptance of any defective or incomplete work or improper materials.

#### ***B-68 Retention Proceeds; Withholdings; Disbursements***

Notwithstanding other requirements of these General Conditions, Sections 7107 and 7201 of the Public Contract Code shall govern as to retention proceeds, withholding and ultimate disbursement of funds.

#### ***B-69 Liens and Stop Notices***

The Contractor agrees to keep the Work, the site of the Work and all monies held by RCEA free and clear of all liens and stop notices related to labor and materials furnished in connection with the Work, if permitted by law. Furthermore, the Contractor waives any right it may have to file any type of lien or stop notice in connection with the Work. Notwithstanding anything to the contrary contained in the Contract documents, if any such lien or stop notice is filed or there is evidence to believe that lien or stop notice may be filed at any time during the progress of the Work or within the duration of this Contract, RCEA may refuse to make any payment otherwise due the Contractor or may withhold any payment due the Contractor a sum sufficient in the opinion of RCEA to pay all obligations and expenses necessary to satisfy such lien or stop notice. RCEA may withhold such payment unless or until the Contractor, within ten days after demand therefore by RCEA, shall furnish satisfactory evidence that the indebtedness and any lien or stop notice in respect thereof has been satisfied, discharged and released of record, or that the Contractor has legally caused such lien or stop notice to be released of record pending the resolution of any dispute between the Contractor and any person or persons filing such lien or stop notice. If the Contractor shall fail to furnish such satisfactory evidence within ten days of the demand therefore, RCEA may discharge such indebtedness and deduct the amount thereof, together with any and all losses, costs, damages and attorney's fees suffered or incurred by RCEA from any sum payable to the Contractor under the Contract documents, including but not limited to final payment and retained percentage. This Section shall be specifically included in all Subcontracts and purchase orders entered by the Contractor.

#### ***B-70 Final Acceptance and Date of Completion***

Whenever the Contractor shall deem all Work under this Contract to have been completed in accordance therewith, it shall so notify RCEA in writing, and RCEA shall promptly ascertain whether the work has been satisfactorily completed and, if not, shall advise the Contractor in detail and in writing of any additional work required. When all the provisions of the Contract have been fully complied with to the satisfaction of RCEA, it shall proceed with all reasonable diligence to determine accurately the total value of all work performed by the Contractor at the prices set forth in the Contract or fixed by Change



Orders, and the total value of all extra work, all in accordance with the Contract. RCEA will then certify to said final estimate and to the completion of the work and will file copies thereof with RCEA and the Contractor. The date of completion shall be the date upon which RCEA makes its formal written acceptance of the work as per Article III Section B-34.

***B-71 Final Payment***

Within ten (10) days after the date of completion, RCEA will file in the Office of the County Recorder, a Notice of Completion of the Work herein agreed to be done by the Contractor. On the expiration of thirty-five (35) days after the recordation of such Notice of Completion the difference between said final estimate and all payments theretofore made to the Contractor shall be due and payable to the Contractor, subject to any requirements concerning the furnishings of a maintenance bond, and excepting only such sum or sums as may be withheld or deducted in accordance with the provisions of this Contract. All prior certifications upon which partial payments may have been made, being merely estimates, shall be subject to correction in the final certificate.

***B-72 Final Release***

Final payment to the Contractor in accordance with the final estimate is contingent upon the Contractor furnishing RCEA with a signed written release of all claims against RCEA arising by virtue of the Contract. Disputed Contract claims in stated amounts may be specifically excluded by the Contractor from the operation of the release. The release shall be in substantially the following form:

WAIVER AND RELEASE UPON FINAL PAYMENT

The undersigned has been paid in full by RCEA for all labor, services, equipment and material furnished to RCEA on the \_\_\_\_\_ Improvements located at \_\_\_\_\_, California, and does hereby waive and release RCEA, its officers, agents, and employees, from all claims and liability to the Contractor arising out of, or in any way connected with, the Contract, except for the disputed contract claims specified below:

<u>Notice of disputed claim</u>	<u>Amount of Claim</u>
---------------------------------	------------------------

	\$ _____
--	----------

Dated: \_\_\_\_\_

\_\_\_\_\_  
(Name of Contractor)

By: \_\_\_\_\_  
(Title)

Any payment, however, final or otherwise shall not release the Contractor or its sureties from obligations under the Contract Documents or Performance and Payment Bonds.

***B-73 Right to Withhold Payments***

- (a) In addition to all other rights and remedies of RCEA hereunder and by virtue of the law, RCEA may withhold or nullify the whole or any part of any partial or final payment to such extent as may reasonably be necessary to protect RCEA from loss on account of:
  - (1) Defective work not remedied, irrespective of when any such work be found to be defective;
  - (2) Claims or liens filed or reasonable evidence indicating probable filing of claims or liens including, but not limited to claims under Sections 1775, 1776, or 1777.7 of the Labor Code;
  - (3) Failure of the Contractor to make payments properly for labor, materials, equipment, or other facilities, or to subcontractors and/or suppliers;
  - (4) A reasonable doubt that the work can be completed for the balance then unearned;
  - (5) A reasonable doubt that the Contractor will complete the work within the agreed time limits;
  - (6) Costs to RCEA resulting from failure of the Contractor to complete the work within the proper time; or
  - (7) Damage to work or property.
  - (8) Damage to another Contractor.
  - (9) Performance of work in violation of the Terms of the Contract Documents.
  - (10) Where work on unit items is substantially complete but lacks cleanup and/or other corrections ordered by RCEA, amounts shall be deducted from the unit prices in partial payment estimates to amply cover such cleanup and correction.
  - (11) Failure to file required Equal Opportunity and Affirmative Action forms.
- (b) Whenever RCEA shall, in accordance herewith, withhold any monies otherwise due the Contractor, written notice of the amount withheld, and the reasons therefore will be given the Contractor. After the Contractor has corrected the enumerated deficiencies, RCEA will promptly pay to the Contractor the amount so withheld. When monies are withheld to protect RCEA against claims or liens of mechanics, materialmen, Subcontractors, etc., RCEA may at its discretion permit the Contractor to deliver a surety bond in terms and

amount satisfactory to RCEA, indemnifying RCEA against any loss or expense, and upon acceptance thereof by RCEA, RCEA shall release to the Contractor monies so withheld.

***B-74 Waiver of Interest***

RCEA shall have no obligation to pay and the Contractor hereby waives the right to recover interest regarding monies which RCEA is required to withhold by reason of judgment, order, statute or judicial process.

***B-75 Satisfaction of Claims and Liens***

Neither the final payment nor any part of the retained percentage shall become due until the Contractor, if required, shall deliver to RCEA, a complete release of all liens and claims arising out of this Contract, or receipts in full in lieu thereof and, if required in either case, an affidavit that so far as it has knowledge or information the releases and receipts include all the labor and material for which a lien or claim could be filed; but the Contractor may, if any Subcontractor refuses to furnish a release or receipt in full, furnish a bond satisfactory to RCEA, to indemnify RCEA against any lien or claim. If any lien or claim remains unsatisfied after all payments are made, the Contractor shall refund to RCEA all monies that the latter may be compelled to pay in discharging such a lien, or claim, including all costs and reasonable attorney's fees.

## NOTICE OF AWARD

To: \_\_\_\_\_

Project Description: Fencing Installation for ACV Microgrid

Redwood Coast Energy Authority has considered the bid submitted by you for the above described work in response to its Notice Inviting Bids for the Project.

You are hereby notified that your bid has been accepted in the amount of: xxxxx (\$xx,xxx).

You are required to execute the Contract and furnish the required Performance Bond and Payment Bond using the bond forms provided in the Contract Documents and the required certificates of insurance within ten (10) calendar days from the date of issuance of this Notice.

If you fail to execute the Contract and to furnish the bonds and insurance within ten (10) calendar days from the date of issuance of this Notice, RCEA will be entitled to consider all your rights arising out of its acceptance of your bid as abandoned and your Bid Bond forfeited. RCEA will be entitled to such other rights as may be granted by law.

You are required to return an acknowledged copy of this Notice of Award to RCEA.

Dated this xxxx day of xxxxx, 2020.

By: Matthew Marshall  
Authorized Signature

Receipt of this above Notice of Award is hereby acknowledged by:

xxxxx, this is the xxth day of xxxx, 2020.

By: xxxxx

Title: xxxxx

## LIMITED NOTICE TO PROCEED

To: \_\_\_\_\_

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

### PROJECT: Fencing Installation for ACV Microgrid

*You are hereby notified to commence procurement related work for preparation for the Project in accordance with the Agreement dated \_\_\_\_\_.* No work on-site is to be completed until the occurrence of both of the following:

- a. Approval by the Federal Aviation Administration (FAA) of the Project; and
- b. Entry into a lease agreement between the County of Humboldt and the RCEA.

### Redwood Coast Energy Authority

BY: \_\_\_\_\_  
Matthew Marshall, Executive Director Date

### ACCEPTANCE OF NOTICE

Receipt of the above LIMITED NOTICE TO PROCEED is hereby acknowledged by:

Name	Title	Date
------	-------	------

## NOTICE TO PROCEED

To: \_\_\_\_\_  
xx/xx/xx

Date:

### **PROJECT: Fencing Installation for ACV Microgrid**

You are hereby notified to commence work in accordance with the Contract dated July xx, 2020, on or before September xx, 2020, and you shall complete the by no later than September 18, 2020

By: \_\_\_\_\_  
Authorized Signature

## PERFORMANCE BOND

WHEREAS, the Governing Board of the Redwood Coast Energy Authority ("RCEA"), at its board meeting on June 25, 2020 has awarded to \_\_\_\_\_ ("Principal"), the Contract for performance of the following project ("Project"):

Fencing Installation for ACV Microgrid

WHEREAS the Principal is required under the terms of the Contract to furnish a bond to RCEA as obligee ensuring its full and faithful performance of the Contract Documents, which are fully incorporated herein by this reference,

NOW, THEREFORE, we, the Principal and \_\_\_\_\_, as Surety, hereby guarantee the Principal's full, faithful and complete performance of the Contract Document requirements in the penal sum of \_\_\_\_\_ dollars (\$ \_\_\_\_\_) for the payment of which sum will and truly be made, we bind ourselves, our heirs, executors, administrators and successors, jointly, severally, and firmly by this agreement to perform or have performed all of the work and activities required to complete the Project pursuant to the Contract Documents and to pay to RCEA all damages RCEA incurs as a result of the Principal's failure to fully perform in accordance with the Contract Documents.

The condition of the obligation is such that if the Principal, its heirs, executors, administrators, successors or assigns shall in all things abide by, and well and truly keep and perform the covenants, conditions and agreements in the Contract Documents and any amendment thereof made as therein provided, on its or their parts to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall insure and indemnify and save harmless RCEA, its officers and agents, as therein stipulated, then this obligation shall become null and void. Otherwise, it shall be and remain in full force and effect.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the Contract Documents shall in any way affect its obligations on this bond and it does hereby waive notice of any such change, extension of time, alteration or addition.

Principal and Surety further agree to pay all costs incurred by RCEA in connection with enforcement of this bond, including, but not limited to RCEA's reasonable attorney's fees and costs incurred, with or without suit, in addition to any other sum required by this bond. Surety further agrees that death, dissolution, or bankruptcy of the Principal shall not relieve the Surety of its obligations hereunder.

In witness whereof, this instrument has been duly executed by the Principal and Surety on the \_\_\_\_\_ day of \_\_\_\_\_, 2020.

*To be signed by  
Principal and Surety  
and acknowledgment  
and notarial seal to  
be attached.*

\_\_\_\_\_  
PRINCIPAL

By: \_\_\_\_\_

TITLE \_\_\_\_\_

\_\_\_\_\_  
SURETY

By: \_\_\_\_\_

TITLE \_\_\_\_\_

The above bond is accepted and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

By: \_\_\_\_\_  
Authorized Signature



## PAYMENT BOND

WHEREAS, the Governing Board of the Redwood Coast Energy Authority ("RCEA") and the Contractor, \_\_\_\_\_ ("Principal") have entered into a contract ("Contract") for the furnishing of all materials, labor, services, equipment, tools, supervision and transportation necessary, convenient and proper for the Fencing Installation for ACV Microgrid ("Project") which Contract dated \_\_\_\_\_, 2020, and all of the Contract Documents made part thereof are fully incorporated herein by this reference; and

WHEREAS, Contractor/Principal is required by Division 4, Part 6, Title 3, Chapter 5 (commencing at Section 9550) of the California Civil Code to furnish a bond in connection with the contract;

NOW, THEREFORE, we, the Contractor/Principal and \_\_\_\_\_ as Surety, are held firmly bound unto RCEA in the penal sum of \$ \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), lawful money of the United States of America for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if the Contractor/Principal, his/her or its heirs, executors, administrators, successors, or assigns, or a subcontractor, shall fail to pay any person or persons named in Civil Code Section 9100 or fail to pay for any materials or other supplies used in, upon, for, or about the performance of the work contracted to be done, or for any work or labor thereon of any kind, or for amounts due under the Unemployment Insurance Code with respect to work or labor thereon of any kind, or shall fail to deduct, withhold, and pay over to the Employment Development Department any amounts required to be deducted, withheld, and paid over by Section 13020 of the Unemployment Insurance Code with respect to work and labor thereon of any kind, then said Surety will pay for the same, in or to an amount not exceeding the amount set forth above, and in case suit is brought upon this bond Surety will also pay such reasonable attorney's fees as shall be fixed by the court, awarded and taxed as provided in Division 4, Part 6, Title 3, Chapter 5 (commencing at Section 9550) of the California Civil Code.

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

It is further stipulated and agreed that the Surety of this bond shall not be exonerated or released from the obligation of the bond by any change, extension of time for performance, addition, alteration, or modification in, to, or of any contract, plans, specifications, or agreement pertaining or relating to any scheme or work of improvement described above or pertaining or relating to the furnishing of labor, materials, or equipment therefor, nor by any change or modification of any terms of payment or extension of the time for any payment pertaining or relating to any scheme or work of improvement described above, nor by any rescission or attempted rescission of the contract, agreement, or bond, nor by any conditions precedent or subsequent in the bond attempting to limit the right of recovery of claimants otherwise entitled to recover under any such contract or agreement or under the bond, nor by any fraud practiced by any person other than the claimant seeking to recover on the bond, and that this bond be construed most strongly against the Surety and in favor of all persons for whose benefit such bond is given, and under no circumstances shall Surety be released from liability to those for whose benefit such bond has been given, by reason of any breach of contract between RCEA and original contractor or on the part of any obligee named in such bond, but the sole conditions of recovery shall be that claimant is a person described in Section 8400 and 8402 of

the California Civil Code and has not been paid the full amount of his/her or its claim and that Surety does hereby waive notice of any such change, extension of time, addition, alteration, or modification.

In witness whereof, this instrument has been duly executed by the Principal and Surety this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

*To be signed by  
Principal and Surety  
and acknowledgment  
and notarial seal to  
be attached.*

\_\_\_\_\_  
PRINCIPAL

By:

\_\_\_\_\_  
Title

\_\_\_\_\_  
SURETY

By:

\_\_\_\_\_  
Title

The above bond is accepted and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

By: \_\_\_\_\_  
Authorized Signature

## GUARANTEE

Guarantee for Redwood Coast Energy Authority: We hereby guarantee that the Fencing Installation for ACV Microgrid which we have completed for the California Redwood Coast – Humboldt County Airport (ACV) has been done in accordance with the Contract Documents, including without limitation, the drawings and specifications, and that the work as installed will fulfill the requirements included in the bid documents. The undersigned and its surety agrees to repair or replace any or all such work, together with any other adjacent work, which may be displaced in connection with such replacement, that may prove to be defective in workmanship or material within a period of two years from the date of the Notice of Completion of the above-mentioned structure by Redwood Coast Energy Authority (RCEA).

In the event the undersigned or its surety fails to comply with the above-mentioned conditions within a reasonable period of time, as determined by RCEA, but not later than ten (10) days after being notified in writing by RCEA or within forty-eight (48) hours in the case of an emergency or urgent matter, the undersigned and its surety authorizes RCEA to proceed to have said defects repaired and made good at the expense of the undersigned and its surety, who will pay the costs and charges therefore upon demand. The undersigned and its surety shall be jointly and severally liable for any costs arising from RCEA's enforcement of this Guarantee.

Signed,

\_\_\_\_\_  
(Company Name)

By: \_\_\_\_\_

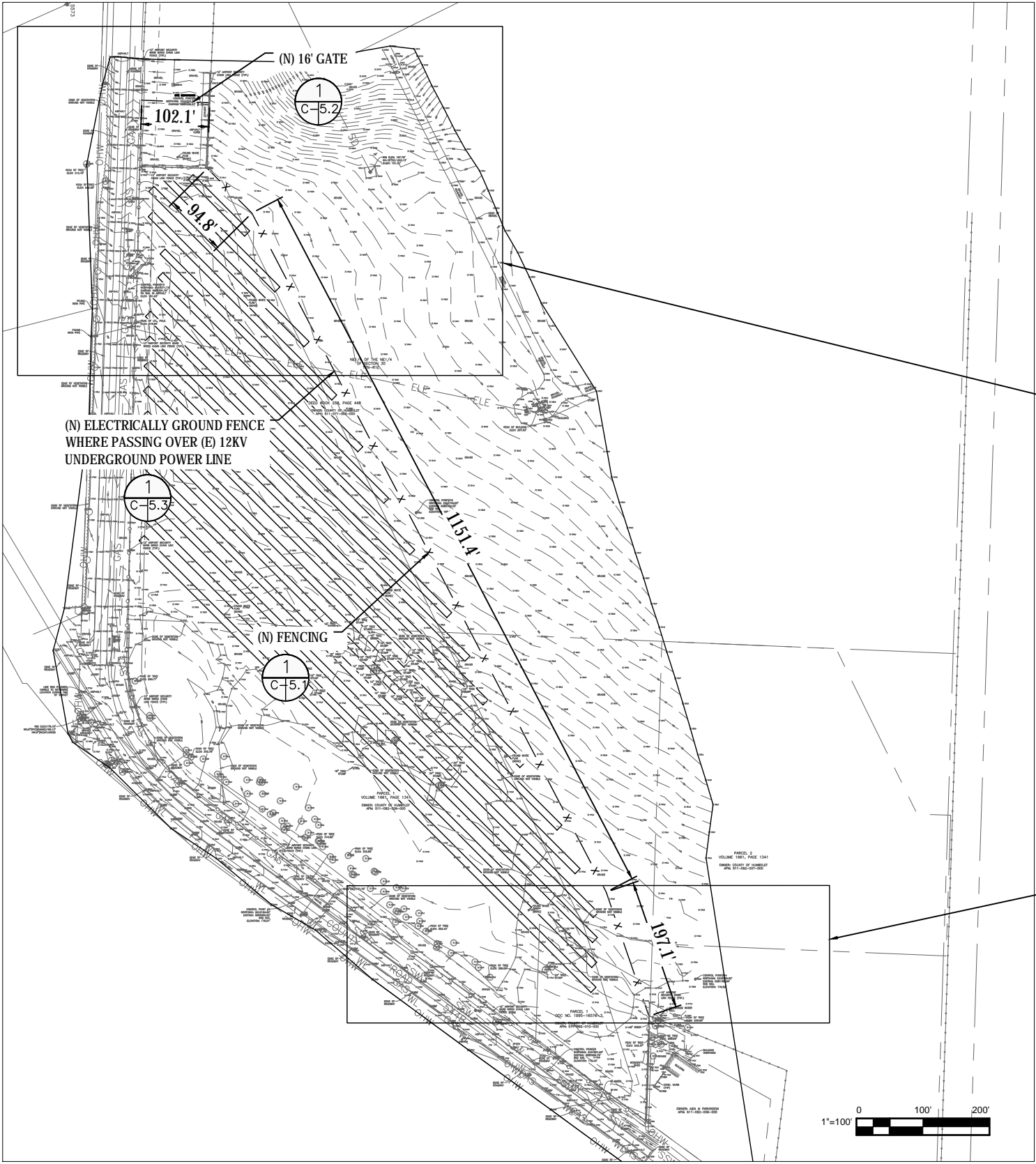
Representatives to be contacted for service:

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

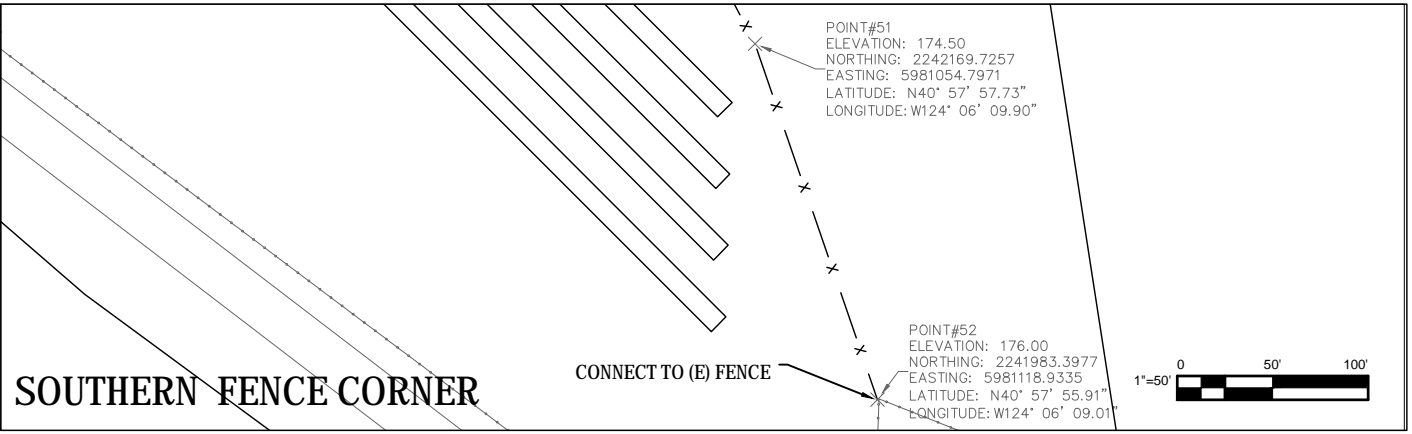
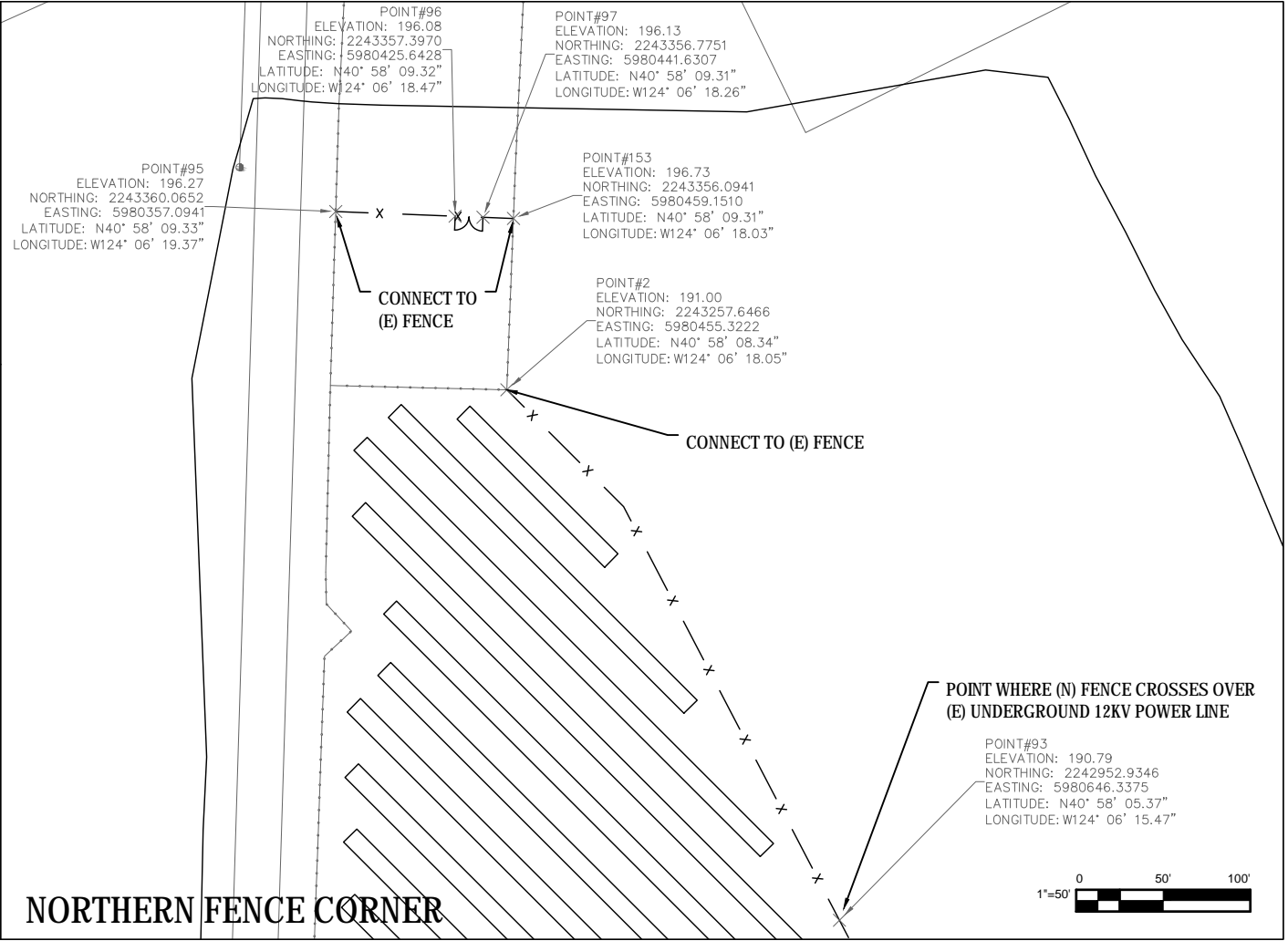
Phone Number: \_\_\_\_\_

## **EXHIBIT A - PLANS & SPECIFICATIONS**



SHEET NOTES:

1. ELEVATION OF POINTS REPRESENT GROUND SURFACE ELEVATION. TO CALCULATE HEIGHT OF FENCE ABOVE GROUND SURFACE USE DETAIL 1 ON SHEET C-5.1
2. ALL COORDINATES ARE A RESULT OF TOPOGRAPHIC SURVEY DATED 5/20/2019 BY BRAIN L. SAUZA PLS NO. 7917
3. ONE 16' GATE IN CONTRACT



STAMP

BAR IS ONE INCH  
ON ORIGINAL DRAWING  
0 1"



REV	DATE	DESCRIPTION
2	9/9/2019	ADD GATED FENCE SECTION
1	8/22/2019	FOR AIRPORT REVIEW

REDWOOD COAST AIRPORT  
MICROGRID

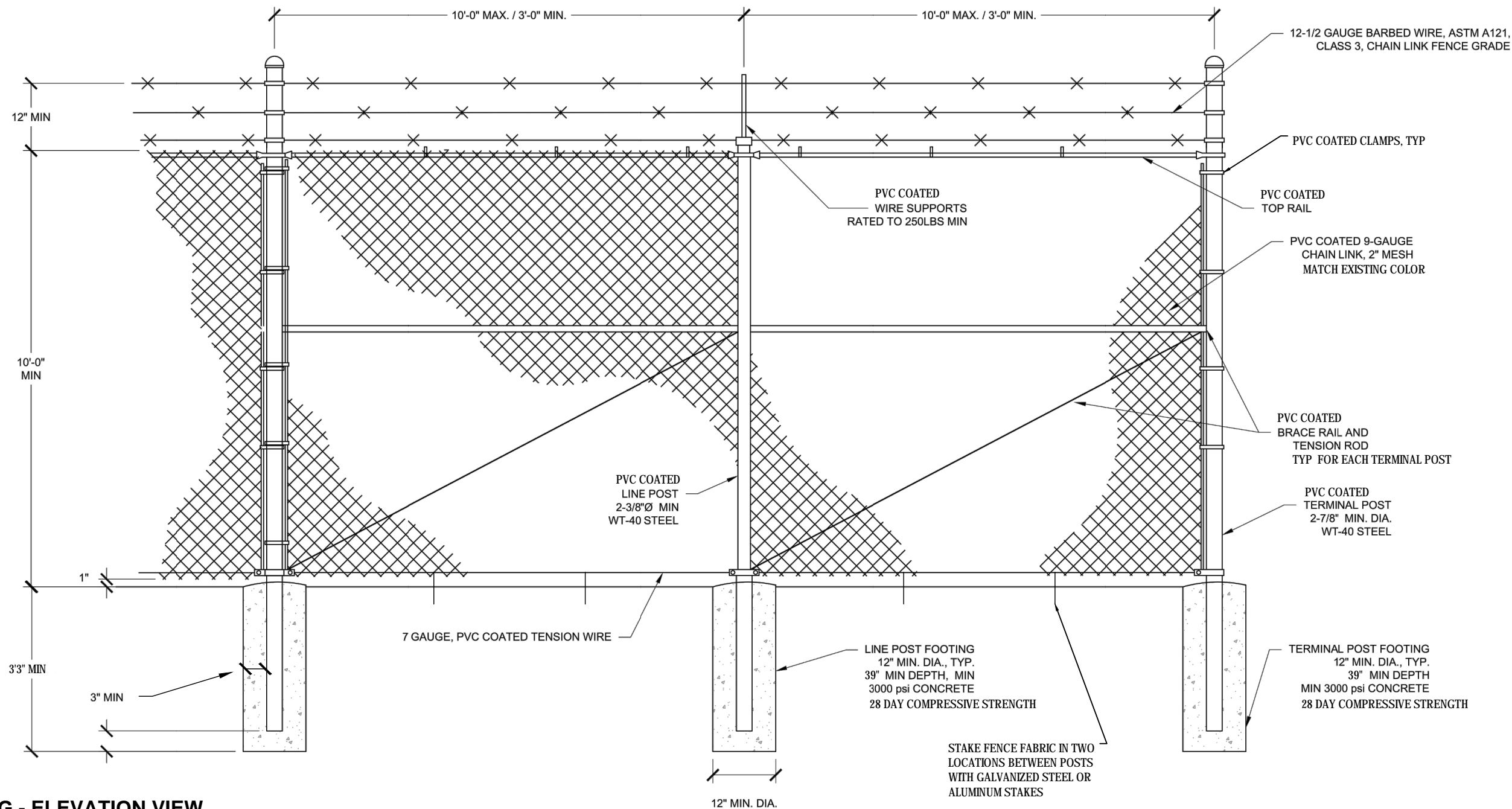
AOA FENCING PLAN

PROJ NO: 74837-7

DRWN: KR CHK: DC

**C-5.0**

SHEET 1 OF 4

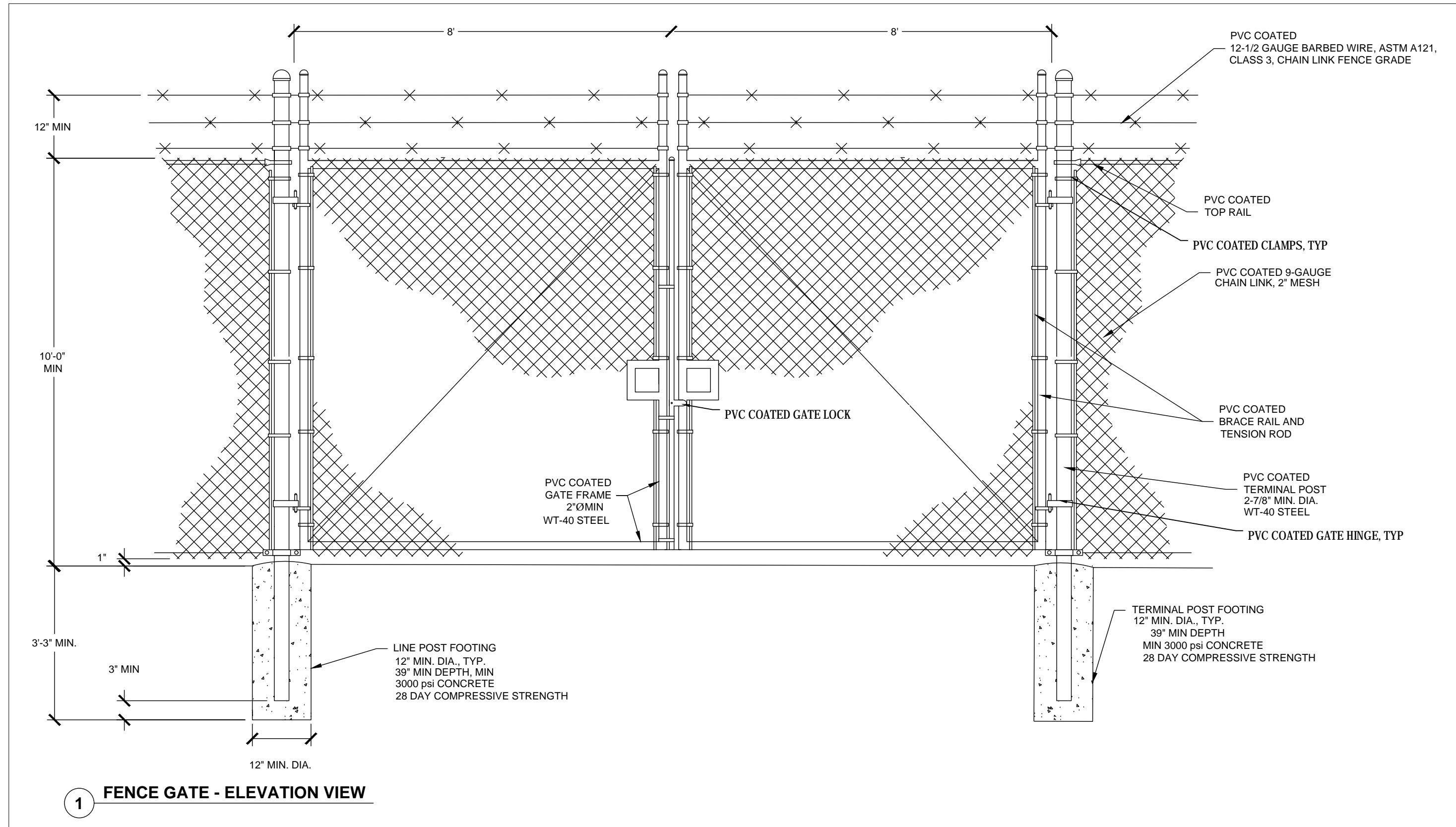


**1 FENCING - ELEVATION VIEW**

FENCING DETAIL COURTESY OF TESLA

REV	DATE	DESCRIPTION
2	9/9/2019	UPDATE SHEET NUMBERS
1	8/22/2019	FOR AIRPORT REVIEW

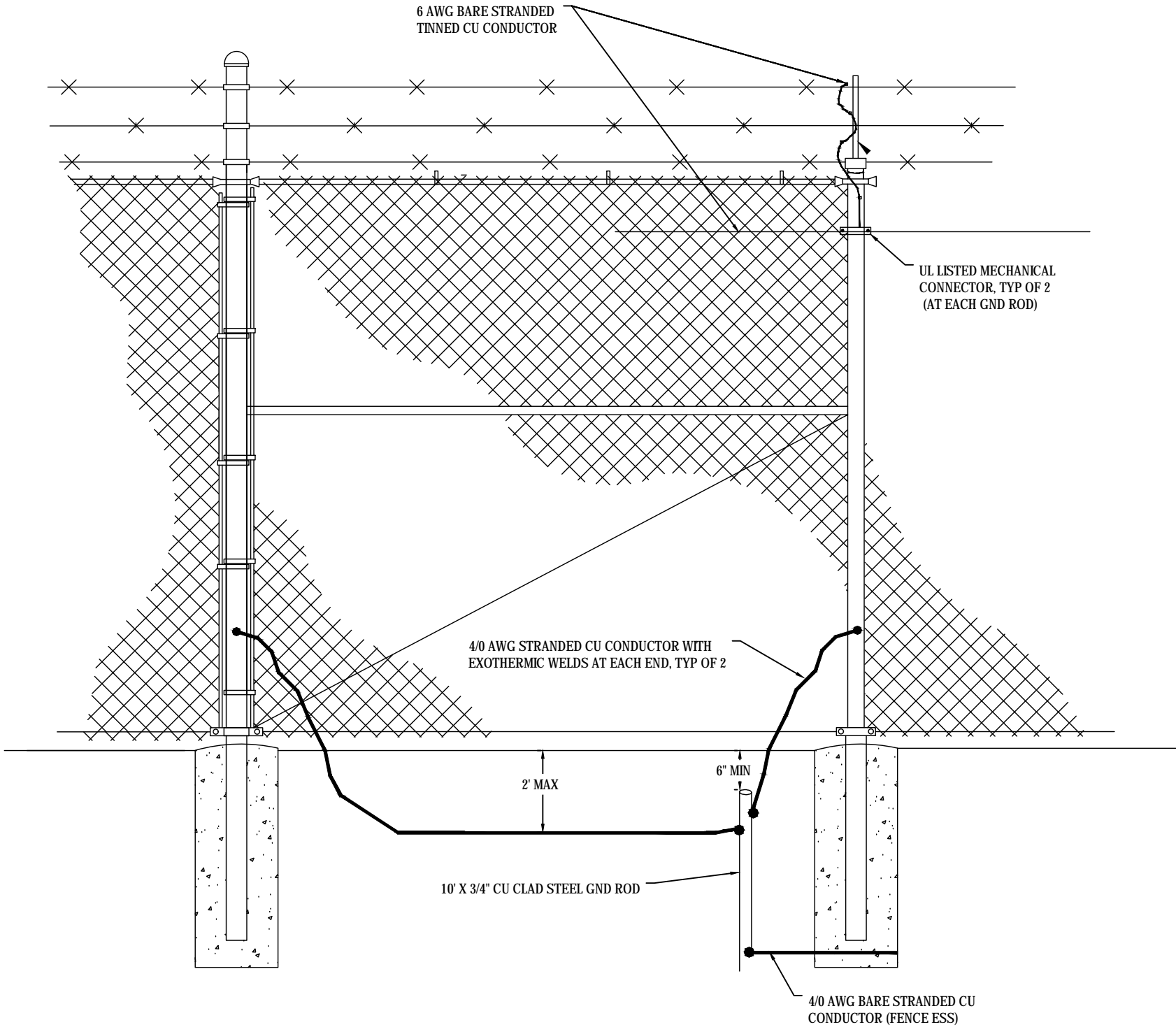




REV	DATE	DESCRIPTION
1	9/9/2019	FOR AIRPORT REVIEW

SHEET NOTES:

- 1. FENCE POSTS ADJACENT TO THE (E) UG 12KV POWER LINE SHALL BE GROUNDED.
- 2. GROUND ROD SHALL BE NEARER TO THE ADJACENT FENCE POST FURTHER FROM THE (E) UG 12KV POWER LINE.
- 3. A 4/0 AWG BARE STRANDED CU CONDUCTOR SHALL BE CONNECTED BETWEEN THE GROUND ROD AND THE ADJACENT FENCE POST CLOSER TO THE (E) UG 12KV POWER LINE. TAKE CARE TO AVOID INTERACTING WITH THE (E) UG 12KV POWER LINE; KEEP THE 4/0 AWG CONDUCTOR ABOVE 2' BELOW GRADE.
- 4. EACH ELEMENT OF THE FENCE SHALL BE GROUNDED: POST, FENCE FABRIC, AND BARBED WIRE. WHERE CROSSBARS OR STRANDED WIRE IS USED, EACH HORIZONTAL STRAND OR CROSS BAR SHALL BE BONDED TO GROUND.
- 5. GROUND RODS SHALL BE DRIVEN VERTICALLY UNTIL THE TOP IS 6" BELOW THE GROUND SURFACE.
- 6. CALL USA PRIOR TO DIGGING NEAR UG POWER LINE.



1 FENCE ELECTRICAL GROUNDING - ELEVATION VIEW

REV	DATE	DESCRIPTION
1	9/9/2019	FOR AIRPORT REVIEW



## Item F-162 Chain-Link Fence

### DESCRIPTION

**162-1.1** This item shall consist of furnishing and erecting a chain-link fence in accordance with these specifications, the details shown on the plans, and in conformity with the lines and grades shown on the plans or established by the RPR.

### MATERIALS

**162-2.1 Fabric.** [ The fabric shall be woven with a 9-gauge polyvinyl chloride (PVC)-coated steel wire in a 2-inch (50 mm) mesh and shall meet the requirements of **ASTM F668, Class 2b**.

**162-2.2 Barbed wire.** Barbed wire shall be 2-strand 12-1/2 gauge zinc-coated wire with 4-point barbs and shall conform to the requirements of **ASTM A121, Class 3 Chain Link Fence Grade**.

**162-2.3 Posts, rails, and braces.** Line posts, rails, and braces shall conform to the requirements of ASTM F1043 or ASTM F1083 as follows:

- Vinyl or polyester coated steel shall conform to the requirements of ASTM F1043, Paragraph 7.3, Optional Supplemental Color Coating.

Posts, rails, and braces, with the exception of galvanized steel conforming to ASTM F1043 or ASTM F1083, Group 1A, Type A, or aluminum alloy, shall demonstrate the ability to withstand testing in salt spray in accordance with ASTM B117 as follows:

- External: 1,000 hours with a maximum of 5% red rust.
- Internal: 650 hours with a maximum of 5% red rust.

The dimensions of the posts, rails, and braces shall be in accordance with Tables I through VI of Federal Specification RR-F-191/3.

**162-2.4 Gates.** Gate frames shall consist of polymer-coated steel pipe and shall conform to the specifications for the same material under paragraph 162-2.3. The fabric shall be of the same type material as used in the fence.

**162-2.5 Wire ties and tension wires.** Wire ties for use in conjunction with a given type of fabric shall be of the same material and coating weight identified with the fabric type. Tension wire shall be 7-gauge marcelled steel wire with the same coating as the fabric type and shall conform to ASTM A824.

All material shall conform to Federal Specification RR-F-191/4.

**162-2.6 Miscellaneous fittings and hardware.** Miscellaneous steel fittings and hardware for use with PVC coated steel fabric shall be of commercial grade steel or better quality, wrought or cast as appropriate to the article, and sufficient in strength to provide a balanced design when used in conjunction with fabric posts, and wires of the quality specified herein. Barbed wire support arms shall withstand a load of 250 pounds (113 kg) applied vertically to the outermost end of the arm.

**162-2.7 Concrete.** Concrete shall have a minimum 28-day compressive strength of 3000 psi (2670 kPa).

**162-2.8 Marking.** Each roll of fabric shall carry a tag showing the kind of base metal (steel, aluminum, or  
Item F-162 Chain-Link Fence

aluminum alloy number), kind of coating, the gauge of the wire, the length of fencing in the roll, and the name of the manufacturer. Posts, wire, and other fittings shall be identified as to manufacturer, kind of base metal (steel, aluminum, or aluminum alloy number), and kind of coating.

## CONSTRUCTION METHODS

**162-3.1 General.** The fence shall be constructed in accordance with the details on the plans and as specified here using new materials. All work shall be performed in a workmanlike manner satisfactory to the RPR. The Contractor shall layout the fence line precisely using survey grade instrumentation based on the northings and eastings shown on the plans.

The Contractor shall span the opening below the fence with barbed wire at all locations where it is not practical to conform the fence to the general contour of the ground surface because of natural or manmade features such as drainage ditches. The new fence shall be permanently tied to the terminals of existing fences as shown on the plans. The Contractor shall stake down the woven wire fence at several points between posts as shown on the plans.

**162-3.2 Clearing fence line.** Clearing shall consist of the removal of all stumps, brush, rocks, trees, or other obstructions that will interfere with proper construction of the fence. Stumps within the cleared area of the fence shall be grubbed or excavated. The bottom of the fence shall be placed a uniform distance above ground, as specified in the plans. When shown on the plans or as directed by the RPR, the existing fences which interfere with the new fence location shall be removed by the Contractor as a part of the construction work unless such removal is listed as a separate item in the bid schedule. All holes remaining after post and stump removal shall be refilled with suitable soil, gravel, or other suitable material and compacted with tampers.

The cost of removing and disposing of the material shall not constitute a pay item and shall be considered incidental to fence construction.

**162-3.3 Installing posts.** All posts shall be set in concrete at the required dimension and depth and at the spacing shown on the plans.

The concrete shall be thoroughly compacted around the posts by tamping or vibrating and shall have a smooth finish slightly higher than the ground and sloped to drain away from the posts. All posts shall be set plumb and to the required grade and alignment. No materials shall be installed on the posts, nor shall the posts be disturbed in any manner within seven (7) days after the individual post footing is completed.

Should rock be encountered at a depth less than the planned footing depth, a hole 2 inches (50 mm) larger than the greatest dimension of the posts shall be drilled to a depth of 12 inches (300 mm). After the posts are set, the remainder of the drilled hole shall be filled with grout, composed of one part Portland cement and two parts mortar sand. Any remaining space above the rock shall be filled with concrete in the manner described above.

In lieu of drilling, the rock may be excavated to the required footing depth. No extra compensation shall be made for rock excavation.

**162-3.4 Installing top rails.** The top rail shall be continuous and shall pass through the post tops. The coupling used to join the top rail lengths shall allow for expansion.

**162-3.5 Installing braces.** Horizontal brace rails, with diagonal truss rods and turnbuckles, shall be installed at all terminal posts.

**162-3.6 Installing fabric.** The wire fabric shall be firmly attached to the posts and braced as shown on the plans. All wire shall be stretched taut and shall be installed to the required elevations. The fence shall generally follow the contour of the ground, with the bottom of the fence fabric no less than one inch (25 mm) or more than 4 inches (100 mm) from the ground surface. Grading shall be performed where

necessary to provide a neat appearance.

At locations of small natural swales or drainage ditches and where it is not practical to have the fence conform to the general contour of the ground surface, longer posts may be used and multiple strands of barbed wire stretched to span the opening below the fence. The vertical clearance between strands of barbed wire shall be 6 inches (150 mm) or less.

**162-3.7 Electrical grounds.** An electrical ground shall be constructed where a power line passes under the fence as shown on plans. The ground shall be accomplished with a copper clad rod 8 feet (2.4 m) long and a minimum of 5/8 inches (16 mm) in diameter driven vertically until the top is 6 inches (150 mm) below the ground surface. A No. 6 solid copper conductor shall be clamped to the rod and to a fence post on each side of the crossing, the fence fabric between those posts, and the stranded barbed wire at the top of the fence. Installation of ground rod shall not constitute a pay item and shall be considered incidental to fence construction. The Contractor shall comply with FAA-STD-019, Lightning and Surge Protection, Grounding, Bonding and Shielding Requirements for Facilities and Electronic Equipment, paragraph 4.2.3.8, Lightning Protection for Fences and Gates, when fencing is adjacent to FAA facilities.

**162-3.8 Cleaning up.** The Contractor shall remove from the vicinity of the completed work all tools, buildings, equipment, etc., used during construction. All disturbed areas shall be seeded per T-901.

### METHOD OF MEASUREMENT

**162-4.1** Chain-link fence will be measured for payment by the linear foot (meter). Measurement will be along the top of the fence from center to center of end posts, excluding the length occupied by gate openings.

**162-4.2** Gates will be measured as complete units.

### BASIS OF PAYMENT

**162-5.1** Payment for chain-link fence will be made at the contract unit price per linear foot.

**162-5.2** Payment for vehicle gate will be made at the contract unit price for each gate.

The price shall be full compensation for furnishing all materials, and for all preparation, erection, and installation of these materials, and for all labor equipment, tools, and incidentals necessary to complete the item.

### REFERENCES

The publications listed below form a part of this specification to the extent referenced. The publications are referred to within the text by the basic designation only.

ASTM International (ASTM)

ASTM A121	Standard Specification for Metallic-Coated Carbon Steel Barbed Wire
ASTM A153	Standard Specification for Zinc Coating (Hot-Dip) on Iron and Steel Hardware
ASTM A392	Standard Specification for Zinc-Coated Steel Chain-Link Fence Fabric
ASTM A491	Standard Specification for Aluminum-Coated Steel Chain-Link Fence Fabric
ASTM A824	Standard Specification for Metallic-Coated Steel Marcellled Tension Wire for Use with Chain Link Fence

ASTM B117	Standard Practice for Operating Salt Spray (Fog) Apparatus
ASTM F668	Standard Specification for Polyvinyl Chloride (PVC), Polyolefin and other Organic Polymer Coated Steel Chain-Link Fence Fabric
ASTM F1043	Standard Specification for Strength and Protective Coatings on Steel Industrial Fence Framework
ASTM F1083	Standard Specification for Pipe, Steel, Hot-Dipped Zinc-Coated (Galvanized) Welded, for Fence Structures
ASTM F1183	Standard Specification for Aluminum Alloy Chain Link Fence Fabric
ASTM F1345	Standard Specification for Zinc 5% Aluminum-Mischmetal Alloy Coated Steel Chain-Link Fence Fabric
ASTM G152	Standard Practice for Operating Open Flame Carbon Arc Light Apparatus for Exposure of Nonmetallic Materials
ASTM G153	Standard Practice for Operating Enclosed Carbon Arc Light Apparatus for Exposure of Nonmetallic Materials
ASTM G154	Standard Practice for Operating Fluorescent Ultraviolet (UV) Lamp Apparatus for Exposure of Nonmetallic Materials
ASTM G155	Standard Practice for Operating Xenon Arc Light Apparatus for Exposure of Nonmetallic Materials

## Federal Specifications (FED SPEC)

FED SPEC RR-F-191/3 Fencing, Wire and Post, Metal (Chain-Link Fence Posts, Top Rails and Braces)

FED SPEC RR-F-191/4 Fencing, Wire and Post, Metal (Chain-Link Fence Accessories)

## FAA Standard

FAA-STD-019 Lightning and Surge Protection, Grounding, Bonding and Shielding Requirements for Facilities and Electronic Equipment

## FAA Orders

5300.38 AIP Handbook

**END OF ITEM F-162**