

**AGREEMENT BETWEEN
VENTURA COUNTY TRANSPORTATION COMMISSION
AND
SUMMER CONSTRUCTION, INC.
FOR EMERGENCY CONSTRUCTION SERVICES
TO PROVIDE SLOPE STABILITY FOR THE SESPE CREEK
OVERFLOW RAILROAD BRIDGE APPROACH
ON THE SANTA PAULA BRANCH LINE**

ARTICLE I – GENERAL PROVISIONS

- A. This AGREEMENT is between the following named, hereinafter referred to as, CONTRACTOR and the Ventura County Transportation Commission, hereinafter referred to as, VCTC:

The name of the “CONTRACTOR” is as follows:
SUMMER CONSTRUCTION, INC.
Incorporated in the State of California

The Project Manager for the CONTRACTOR will be: Mr. Sam Bennett

The Contract Administrator for VCTC will be: Ms. Amanda Fagan

- B. The work to be performed under this AGREEMENT is described in Article III Statement of Work and the approved CONTRACTOR’s Cost Proposal dated August 28, 2024. The approved CONTRACTOR’s Cost Proposal is attached hereto (Attachment A) and incorporated by reference. If there is any conflict between the approved Cost Proposal and this AGREEMENT, this AGREEMENT shall take precedence.
- C. CONTRACTOR To the fullest extent permitted by law, CONTRACTOR shall indemnify, defend, protect and hold harmless VCTC, its Boards, Commissions, and their officials, employees and agents, and those of VCTC’s partner agencies (“Indemnified Parties”), from and against any and all liability, claims, demands, damage, loss, obligations, causes of action, proceedings, awards, fines, judgments, penalties, costs and expenses, including attorneys’ fees, court costs, expert and witness fees, and other costs and fees of litigation, arising or alleged to have arisen, in whole or in part, out of or in connection with (1) CONTRACTOR’s breach or failure to comply with any of its obligations contained in the AGREEMENT, including any obligations arising from the CONTRACTOR’s compliance with or failure to comply with applicable laws, including all applicable federal and state labor requirements including, without limitation, the requirements of California Labor Code section 1770 et seq., and/ or (2) negligent, reckless, or willful acts, errors, omissions or misrepresentations committed by CONTRACTOR, its officers, employees, agents, subcontractors, or anyone under CONTRACTOR’s control, in the performance of work or services under the AGREEMENT (collectively “Claims” or individually “Claim”).
1. In addition to CONTRACTOR’s duty to indemnify, CONTRACTOR shall have a separate and wholly independent duty to defend Indemnified Parties at CONTRACTOR’s expense by legal counsel approved by VCTC, from and against all Claims, and shall continue this defense until the Claims are resolved, whether by settlement, judgment or otherwise. No finding or judgment of negligence, fault, breach, or the like on the part of CONTRACTOR shall be required for the duty to defend to arise. VCTC shall notify CONTRACTOR of any Claim, shall tender the defense of the Claim to CONTRACTOR, and shall assist CONTRACTOR, as may be reasonably requested, in the defense.
 2. If CONTRACTOR elects to use subcontractors, CONTRACTOR agrees to require its subcontractors to indemnify Indemnified Parties and to provide insurance coverage to the same extent as CONTRACTOR. If the CONTRACTOR elects to use subcontractors, the CONTRACTOR shall not allow any subcontractor to commence work until all insurance required of subcontractor is obtained.

3. The provisions of this Section shall survive the expiration, suspension, or termination of this Agreement
- D. CONTRACTOR in the performance of this AGREEMENT, shall act in an independent capacity. It is understood and agreed that CONTRACTOR (including CONTRACTOR's employees) is an independent contractor and that no relationship of employer-employee exists between the Parties hereto. CONTRACTOR's assigned personnel shall not be entitled to any benefits payable to employees of VCTC.
 - E. VCTC is not required to make any deductions or withholdings from the compensation payable to CONTRACTOR under the provisions of the AGREEMENT and is not required to issue W-2 Forms for income and employment tax purposes for any of CONTRACTOR's assigned personnel. CONTRACTOR, in the performance of its obligation hereunder, is only subject to the control or direction of the VCTC as to the designation of tasks to be performed and the results to be accomplished.
 - F. Any third-party person(s) employed by CONTRACTOR shall be entirely and exclusively under the direction, supervision, and control of CONTRACTOR. CONTRACTOR hereby agrees to indemnify and hold VCTC harmless from any and all claims that may be made against VCTC based upon any contention by any third party that an employer-employee relationship exists by reason of this AGREEMENT, including any contentions by CONTRACTOR's employees related to eligibility for benefits under the Public Employee Retirement System ("PERS") pursuant to the relationship created under this Agreement.
 - G. Except as expressly authorized herein, CONTRACTOR's obligations under this AGREEMENT are not assignable or transferable, and CONTRACTOR shall not subcontract any work, without the prior written approval of the VCTC. However, claims for money due or which become due to CONTRACTOR from VCTC under this AGREEMENT may be assigned to a financial institution or to a trustee in bankruptcy, without such approval. Notice of any assignment or transfer whether voluntary or involuntary shall be furnished promptly to the VCTC.
 - H. In accordance with CONTRACTOR's obligations outlined in Section C above, CONTRACTOR shall be as fully responsible to the VCTC for the negligent acts and omissions of its contractors and subcontractors, and of persons either directly or indirectly employed by them, in the same manner as persons directly employed by CONTRACTOR.
 - I. No alteration or variation of the terms of this AGREEMENT shall be valid, unless made in writing and signed by the parties authorized to bind the parties; and no oral understanding or agreement not incorporated herein, shall be binding on any of the parties hereto.
 - J. The consideration to be paid to CONTRACTOR as provided herein, shall be in compensation for all of CONTRACTOR's expenses incurred in the performance hereof, including travel and per diem, unless otherwise expressly so provided.

ARTICLE II – CONTRACTOR'S REPORTS OR MEETINGS

- A. CONTRACTOR shall submit progress reports at least once a month. The report should be sufficiently detailed for the VCTC's Contract Administrator to determine, if CONTRACTOR is performing to expectations, or is on schedule; to provide communication of interim findings, and to sufficiently address any difficulties or special problems encountered, so remedies can be developed.
- B. CONTRACTOR's Project Manager shall meet with VCTC's Contract Administrator, as needed, to discuss progress on the AGREEMENT.

ARTICLE III – STATEMENT OF WORK

A. Contractor Services

The purpose of this AGREEMENT is to provide emergency construction services for the Sespe Creek Overflow Railroad Bridge Embankment Stabilization & Approach Repair Project, hereinafter referred to as “Project”, located in Ventura County, California. The scope of work shall include emergency construction services as specified in the Project plans and specifications. The scope of work shall also include coordination with the Railroad Operator, Sierra Northern Railway.

B. VCTC Obligations

All data applicable to the Project and in possession of VCTC, another agency, or government agency that are to be made available to CONTRACTOR are referred to in the AGREEMENT. Any other assistance or services to be furnished to CONTRACTOR are to be stated clearly.

C. Conferences, Site Visits, Inspection of Work

This AGREEMENT provides for conferences as needed, visits to the site, and inspection of the work by representatives of the VCTC, State, and/or FEMA. Costs incurred by CONTRACTOR for meetings, subsequent to the initial meeting are included in the fee.

D. Checking Shop Drawings

Any payment for checking shop drawings by CONTRACTOR is included in the AGREEMENT fee.

E. CONTRACTOR Services During Construction

CONTRACTOR's services may be requested during the course of construction as material testing, construction surveys, etc., are completed. Payment for these services will be on a time and material basis based on the rates specified under this AGREEMENT.

F. Documentation and Schedules

CONTRACTOR shall document the results of the work to the satisfaction of VCTC, and if applicable, the State and FEMA. This may include preparation of progress and final reports, plans, specifications and estimates, or similar evidence of attainment of the AGREEMENT objectives.

G. Deliverables and Number of Copies

The CONTRACTOR shall furnish three (3) hard copies and one (1) electronic copy of deliverables, including reports, brochures, sets of plans, specifications, and maps.

ARTICLE IV – PERFORMANCE PERIOD

A. This AGREEMENT shall be effective as of September 6, 2024, and CONTRACTOR shall commence work after Notice-to-Proceed (NTP) by VCTC'S Contract Administrator. The AGREEMENT shall terminate on March 30, 2024, unless extended by AGREEMENT amendment. As this is an emergency repair project, time is of the essence and CONTRACTOR shall use best efforts to complete the work during the foregoing time period, including dedicating sufficient resources and personnel to meet the timeline.

B. CONTRACTOR is advised that any recommendation for AGREEMENT award is not binding on VCTC until the AGREEMENT is fully executed and approved by VCTC.

ARTICLE V – ALLOWABLE COSTS AND PAYMENTS

A. The method of payment for this AGREEMENT will be based on lump sum. The total lump sum price paid to CONTRACTOR will include compensation for all work and deliverables, including travel and equipment described in Article III Statement of Work. No additional compensation will be paid

to CONTRACTOR, unless there is a change in the scope of the work or the scope of the project. In the instance of a change in the scope of work or scope of the project, adjustment to the total lump sum compensation will be negotiated between CONTRACTOR and VCTC. Adjustment in the total lump sum compensation will not be effective until authorized by AGREEMENT amendment and approved by VCTC.

Progress payments may be made monthly in arrears based on the percentage of work completed by CONTRACTOR. The Contractor will submit applications for progress payments on forms acceptable to VCTC for approval to match the Schedule of Values. For Schedule of Values, refer to the Scope of Work Attachment 4, Standard Specification 01 29 73 Schedule of Values.

- B. If CONTRACTOR fails to submit the required deliverable items according to the schedule set forth in Article III Statement of Work, VCTC shall have the right to delay payment or terminate this AGREEMENT in accordance with the provisions of Article VI Termination.
- C. CONTRACTOR shall not commence performance of work or services until this AGREEMENT has been approved by VCTC and notification to proceed has been issued by VCTC'S Contract Administrator. No payment will be made prior to approval of any work, or for any work performed prior to approval of this AGREEMENT.
- D. CONTRACTOR will be reimbursed within thirty (30) days upon receipt by VCTC'S Contract Administrator of itemized invoices in duplicate. Invoices shall be submitted no later than thirty (30) calendar days after the performance of work for which CONTRACTOR is billing. Invoices shall detail the work performed on each milestone, on each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this AGREEMENT number and project title. Final invoice must contain the final cost and all credits due VCTC that include any equipment purchased under the provisions of Article XI Equipment Purchase. The final invoice must be submitted within sixty (60) calendar days after completion of CONTRACTOR'S work unless a later date is approved by the VCTC. Invoices shall be mailed to VCTC's Contract Administrator at the following address:

Ventura County Transportation Commission
Attn: Amanda Fagan
751 E. Daily Dr., Suite 420
Camarillo, CA 93010

Progress Payments shall also be submitted electronically to:
Attn: Amanda Fagan
afagan@goventura.org

- E. The total amount payable by VCTC shall not exceed \$823,266.30.

ARTICLE VI – PRECEDENCE

Conflicting provisions hereof, if any, shall prevail in the following descending order of precedence:

- A. Permits issued by jurisdictional regulatory agencies
- B. Change Orders and Supplemental Agreements; whichever occurs last
- C. Contract/Agreement
- D. Addenda
- E. Bid/Proposal
- F. Special Provisions
- G. Exhibits
- H. SCRRA Design Criteria Manual
- I. Standard Specifications
- J. Reference Specifications Detail Drawings shall take precedence over General Drawings

ARTICLE VII – OPTIONS

- A. Options will be exercised at VCTC's sole discretion. Unless otherwise required by the AGREEMENT, the Contractor must comply with the request to exercise the option.

ARTICLE VIII – TERMINATION

- A. This AGREEMENT may be terminated by VCTC for convenience or for cause upon CONTRACTOR's breach of a material provision of this Agreement, provided that VCTC gives not less than thirty (30) calendar days' written notice (delivered by certified mail, return receipt requested) of intent to terminate.
- B. If VCTC provides notice of intent to terminate this AGREEMENT for cause upon CONTRACTOR's breach of a material provision of this Agreement, the notice shall specify the nature of the breach and provide CONTRACTOR with an opportunity to cure. If CONTRACTOR fails to cure the breach and/or fails to reasonably commence a satisfactory cure, in VCTC's sole discretion, prior to the end of the 30-day notice period, then VCTC may immediately terminate the AGREEMENT upon the date specified in the notice.
- C. Upon termination, VCTC shall be entitled to all work, including but not limited to, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not.
- D. VCTC may temporarily suspend this AGREEMENT, at no additional cost to VCTC, provided that CONTRACTOR is given written notice (delivered by certified mail, return receipt requested) of temporary suspension. If VCTC gives such notice of temporary suspension, CONTRACTOR shall immediately suspend its activities under this AGREEMENT. A temporary suspension may be issued concurrent with the notice of termination.
- E. Notwithstanding any provisions of this AGREEMENT, CONTRACTOR shall not be relieved of liability to VCTC for damages sustained by VCTC by virtue of any breach of this AGREEMENT by CONTRACTOR, and VCTC may withhold any payments due to CONTRACTOR until such time as the exact amount of damages, if any, due VCTC from CONTRACTOR is determined. In the event of a breach, VCTC may take over the Work and prosecute the same to completion by VCTC or otherwise, and the CONTRACTOR shall be liable to VCTC for reasonable costs incurred by VCTC in making necessary arrangements for completion of the work by others. The rights and remedies of VCTC provided above shall not be exclusive and are in addition to any other rights and remedies provided by law or under this AGREEMENT. VCTC shall have the right to set-off any such amounts it incurs in order to complete the Work or otherwise related to the termination of CONTRACTOR against any payments owed to CONTRACTOR for that portion of the Work which has been completed and accepted by VCTC.
- F. In the event of termination, CONTRACTOR shall be compensated for work satisfactorily completed consistent with this AGREEMENT. Upon termination, VCTC shall be entitled to all work, including but not limited to, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not.

ARTICLE IX – COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS

- A. The CONTRACTOR agrees that 48 CFR 31, Contract Cost Principles and Procedures, shall be used to determine the allowability of individual terms of cost.
- B. The CONTRACTOR also agrees to comply with Federal procedures in accordance with 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
- C. Any costs for which payment has been made to the CONTRACTOR that are determined by subsequent audit to be unallowable under 48 CFR 31 or 2 CFR 200 are subject to repayment by the CONTRACTOR to VCTC.
- D. When a CONTRACTOR or Subcontractor is a Non-Profit Organization or an Institution of Higher

Education, the Cost Principles for Title 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards shall apply.

ARTICLE X – RETENTION OF RECORD/AUDITS

For the purpose of determining compliance with Gov. Code § 8546.7, the CONTRACTOR, Subcontractors, and VCTC shall maintain all books, documents, papers, accounting records, Independent CPA Audited Indirect Cost Rate workpapers, and other evidence pertaining to the performance of the AGREEMENT including, but not limited to, the costs of administering the AGREEMENT. All parties, including the CONTRACTOR's Independent CPA, shall make such workpapers and materials available at their respective offices at all reasonable times during the AGREEMENT period and for three (3) years from the date of final payment under the AGREEMENT and records for real property and equipment acquired with federal funds must be retained for three (3) years after final disposition. VCTC, Caltrans Auditor, FEMA, or any duly authorized representative of the Federal government having jurisdiction under Federal laws or regulations (including the basis of Federal funding in whole or in part) shall have access to any books, records, and documents of the CONTRACTOR, Subcontractors, and the CONTRACTOR's Independent CPA, that are pertinent to the AGREEMENT for audits, examinations, workpaper review, excerpts, and transactions, and copies thereof shall be furnished if requested without limitation. CONTRACTOR agrees to permit any of the above listed parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

ARTICLE XI – AUDIT REVIEW PROCEDURES

- A. Any dispute concerning a question of fact arising under an interim or post audit of this AGREEMENT that is not disposed of by AGREEMENT, shall be reviewed by VCTC'S Chief Financial Officer.
- B. Not later than thirty (30) calendar days after issuance of the final audit report, CONTRACTOR may request a review by VCTC'S Chief Financial Officer of unresolved audit issues. The request for review will be submitted in writing.
- C. Neither the pendency of a dispute nor its consideration by VCTC will excuse CONTRACTOR from full and timely performance, in accordance with the terms of this AGREEMENT.
- D. CONTRACTOR and subcontractor AGREEMENTs, including cost proposals and Indirect Cost Rates (ICR), may be subject to audits or reviews such as, but not limited to, an AGREEMENT audit, an incurred cost audit, an ICR Audit, or a CPA ICR audit work paper review. If selected for audit or review, the AGREEMENT, cost proposal and ICR and related work papers, if applicable, will be reviewed to verify compliance with 48 CFR 31 and other related laws and regulations. In the instances of a CPA ICR audit work paper review it is CONTRACTOR's responsibility to ensure federal, VCTC, or local government officials are allowed full access to the CPA's work papers including making copies as necessary. The AGREEMENT, cost proposal, and ICR shall be adjusted by CONTRACTOR and approved by VCTC Contract Administrator to conform to the audit or review recommendations. CONTRACTOR agrees that individual terms of costs identified in the audit report shall be incorporated into the AGREEMENT by this reference if directed by VCTC at its sole discretion. Refusal by CONTRACTOR to incorporate audit or review recommendations, or to ensure that the federal, VCTC or local governments have access to CPA work papers, will be considered a breach of AGREEMENT terms and cause for termination of the AGREEMENT and disallowance of prior reimbursed costs.
- E. CONTRACTOR's Cost Proposal may be subject to a CPA ICR Audit Work Paper Review and/or audit by the Independent Office of Audits and Investigations (IOAI). IOAI, at its sole discretion, may review and/or audit and approve the CPA ICR documentation. The Cost Proposal shall be adjusted by the CONTRACTOR and approved by the VCTC Contract Administrator to conform to the Work Paper Review recommendations included in the management letter or audit recommendations included in the audit report. Refusal by the CONTRACTOR to incorporate the Work Paper Review recommendations included in the management letter or audit recommendations included in the audit report will be considered a breach of the AGREEMENT terms and cause for termination of the AGREEMENT and disallowance of prior reimbursed costs.

- a. During IOAI's review of the ICR audit work papers created by the CONTRACTOR's independent CPA, IOAI will work with the CPA and/or CONTRACTOR toward a resolution of issues that arise during the review. Each party agrees to use its best efforts to resolve any audit disputes in a timely manner. If IOAI identifies significant issues during the review and is unable to issue a cognizant approval letter, VCTC will reimburse the CONTRACTOR at an accepted ICR until a FAR (Federal Acquisition Regulation) compliant ICR {e.g. 48 CFR Part 31; GAGAS (Generally Accepted Auditing Standards); CAS (Cost Accounting Standards), if applicable; in accordance with procedures and guidelines of the American Association of State Highways and Transportation Officials (AASHTO) Audit Guide; and other applicable procedures and guidelines} is received and approved by IOAI.

Accepted rates will be as follows:

- i. If the proposed rate is less than one hundred fifty percent (150%) - the accepted rate reimbursed will be ninety percent (90%) of the proposed rate.
 - ii. If the proposed rate is between one hundred fifty percent (150%) and two hundred percent (200%) - the accepted rate will be eighty-five percent (85%) of the proposed rate.
 - iii. If the proposed rate is greater than two hundred percent (200%) - the accepted rate will be seventy-five percent (75%) of the proposed rate.
- b. If IOAI is unable to issue a cognizant letter per paragraph E.1. above, IOAI may require CONTRACTOR to submit a revised independent CPA-audited ICR and audit report within three (3) months of the effective date of the management letter. IOAI will then have up to six (6) months to review the CONTRACTOR's and/or the independent CPA's revisions.
 - c. If the CONTRACTOR fails to comply with the provisions of this paragraph E, or if IOAI is still unable to issue a cognizant approval letter after the revised independent CPA audited ICR is submitted, overhead cost reimbursement will be limited to the accepted ICR that was established upon initial rejection of the ICR and set forth in paragraph E.1. above for all rendered services. In this event, this accepted ICR will become the actual and final ICR for reimbursement purposes under this AGREEMENT.
 - d. CONTRACTOR may submit to VCTC final invoice only when all of the following items have occurred: (1) IOAI accepts or adjusts the original or revised independent CPA audited ICR; (2) all work under this AGREEMENT has been completed to the satisfaction of VCTC; and, (3) IOAI has issued its final ICR review letter. The CONTRACTOR MUST SUBMIT ITS FINAL INVOICE TO VCTC no later than sixty (60) calendar days after occurrence of the last of these items. The accepted ICR will apply to this AGREEMENT and all other agreements executed between VCTC and the CONTRACTOR, either as a prime or subcontractor, with the same fiscal period ICR.

ARTICLE XII – SUBCONTRACTING

- A. Nothing contained in this AGREEMENT or otherwise, shall create any contractual relation between the VCTC and any Subcontractors, and no subagreement shall relieve the CONTRACTOR of its responsibilities and obligations hereunder. The CONTRACTOR agrees to be as fully responsible to the VCTC for the acts and omissions of its Subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the CONTRACTOR. The CONTRACTOR's obligation to pay its Subcontractors is an independent obligation from the VCTC's obligation to make payments to the CONTRACTOR.
- B. The CONTRACTOR shall perform the work contemplated with resources available within its own organization and no portion of the work shall be subcontracted without written authorization by the VCTC Contract Administrator, except that which is expressly identified in the CONTRACTOR's approved Cost Proposal.

- C. Any subagreement entered into as a result of this AGREEMENT, shall contain all the provisions stipulated in this entire AGREEMENT to be applicable to Subcontractors unless otherwise noted.
- D. CONTRACTOR shall pay its Subcontractors within Fifteen (15) calendar days from receipt of each payment made to the CONTRACTOR by the VCTC.
- E. Any substitution of Subcontractors must be approved in writing by the VCTC Contract Administrator in advance of assigning work to a substitute Subcontractor.
- F. Prompt Progress Payment

CONTRACTOR or Subcontractor shall pay to any Subcontractor, not later than fifteen (15) days after receipt of each progress payment, unless otherwise agreed to in writing, the respective amounts allowed CONTRACTOR on account of the work performed by the Subcontractors, to the extent of each subcontractor's interest therein. In the event that there is a good faith dispute over all or any portion of the amount due on a progress payment from CONTRACTOR or Subcontractor to a Subcontractor, CONTRACTOR or Subcontractor may withhold no more than 150 percent of the disputed amount. Any violation of this requirement shall constitute a cause for disciplinary action and shall subject the licensee to a penalty, payable to the Subcontractor, of 2 percent of the amount due per month for every month that payment is not made.

In any action for the collection of funds wrongfully withheld, the prevailing party shall be entitled to the prevailing party's attorney's fees and costs. The sanctions authorized under this requirement shall be separate from, and in addition to, all other remedies, either civil, administrative, or criminal. This clause applies to both DBE and non-DBE subcontractors.

- G. Prompt Payment of Withheld Funds to Subcontractors

VCTC may hold retainage from CONTRACTOR and shall make prompt and regular incremental acceptances of portions, as determined by the VCTC, of the contract work, and pay retainage to CONTRACTOR based on these acceptances. No retainage will be held by the VCTC from progress payments due to CONTRACTOR. CONTRACTORS and Subcontractors are prohibited from holding retainage from Subcontractors. Any delay or postponement of payment may take place only for good cause and with the VCTC's prior written approval. Any violation of these provisions shall subject the violating CONTRACTOR or Subcontractor to the penalties, sanctions, and other remedies specified in Section 3321 of the California Civil Code. This requirement shall not be construed to limit or impair any contractual, administrative or judicial remedies, otherwise available to CONTRACTOR or Subcontractor in the event of a dispute involving late payment or nonpayment by CONTRACTOR, deficient Subcontractor performance and/or noncompliance by a Subcontractor. This clause applies to both DBE and non-DBE Subcontractors.

- H. Any violation of these provisions shall subject the violating CONTRACTOR or Subcontractor to the penalties, sanctions and other remedies specified therein. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to CONTRACTOR or subcontractor in the event of a dispute involving late payment or nonpayment by CONTRACTOR, deficient subcontract performance, or noncompliance by a subcontractor.

ARTICLE XIII – EQUIPMENT PURCHASE AND OTHER CAPITAL EXPENDITURES

- A. For purchase of any item, service, or consulting work not covered in CONTRACTOR's approved Cost Proposal and exceeding five thousand dollars (\$5,000), with prior authorization by VCTC's Contract Administrator, three competitive quotations must be submitted with the request, or the absence of proposal must be adequately justified.
- B. Any equipment purchased with funds provided under the terms of this AGREEMENT is subject to the

following:

- a. CONTRACTOR shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of five thousand dollars (\$5,000) or more. If the purchased equipment needs replacement and is sold or traded in, VCTC shall receive a proper refund or credit at the conclusion of the AGREEMENT, or if the AGREEMENT is terminated, CONTRACTOR may either keep the equipment and credit VCTC in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established VCTC procedures; and credit VCTC in an amount equal to the sales price. If CONTRACTOR elects to keep the equipment, fair market value shall be determined at CONTRACTOR's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by VCTC and CONTRACTOR, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by VCTC.
- b. Regulation 2 CFR 200 requires a credit to Federal funds when participating equipment with a fair market value greater than five thousand dollars (\$5,000) is credited to the project.

ARTICLE XIV – STATE PREVAILING WAGE RATES/DAVIS BACON

- A. No CONTRACTOR or Subcontractor may be awarded an AGREEMENT containing public work elements unless registered with the Department of Industrial Relations (DIR) pursuant to Labor Code §1725.5. Registration with DIR must be maintained throughout the entire term of this AGREEMENT, including any subsequent amendments.
- B. The CONTRACTOR shall comply with all of the applicable provisions of the California Labor Code requiring the payment of prevailing wages. The General Prevailing Wage Rate Determinations applicable to work under this AGREEMENT are available and on file with the Department of Transportation's Regional / District Labor Compliance Officer (<https://dot.ca.gov/programs/construction/labor-compliance>). These wage rates are made a specific part of this AGREEMENT by reference pursuant to Labor Code §1773.2 and will be applicable to work performed at a construction project site. Prevailing wages will be applicable to all inspection work performed at VCTC construction sites, at VCTC facilities and at off-site locations that are set up by the construction contractor or one of its subcontractors solely and specifically to serve VCTC projects. Prevailing wage requirements do not apply to inspection work performed at the facilities of vendors and commercial materials suppliers that provide goods and services to the general public.
- C. General Prevailing Wage Rate Determinations applicable to this project may also be obtained from the Department of Industrial Relations website at <http://www.dir.ca.gov>.
- D. Payroll Records
 - a. Each CONTRACTOR and Subcontractor shall keep accurate certified payroll records and supporting documents as mandated by Labor Code §1776 and as defined in 8 CCR §16000 showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by the CONTRACTOR or Subcontractor in connection with the public work. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:
 - i. The information contained in the payroll record is true and correct.
 - ii. The employer has complied with the requirements of Labor Code §1771, §1811, and §1815 for any work performed by his or her employees on the public works project.

- b. The payroll records enumerated under paragraph (1) above shall be certified as correct by the CONTRACTOR under penalty of perjury. The payroll records and all supporting documents shall be made available for inspection and copying by VCTC representatives at all reasonable hours at the principal office of the CONTRACTOR. The CONTRACTOR shall provide copies of certified payrolls or permit inspection of its records as follows:
 - i. A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or the employee's authorized representative on request.
 - ii. A certified copy of all payroll records enumerated in paragraph (1) above, shall be made available for inspection or furnished upon request to a representative of VCTC, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards of the Department of Industrial Relations. Certified payrolls submitted to VCTC, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards shall not be altered or obliterated by the CONTRACTOR.
 - iii. The public shall not be given access to certified payroll records by the CONTRACTOR. The CONTRACTOR is required to forward any requests for certified payrolls to the VCTC Contract Administrator by both email and regular mail on the business day following receipt of the request.
 - c. Each CONTRACTOR shall submit a certified copy of the records enumerated in paragraph (1) above, to the entity that requested the records within ten (10) calendar days after receipt of a written request.
 - d. Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by VCTC shall be marked or obliterated in such a manner as to prevent disclosure of each individual's name, address, and social security number. The name and address of the CONTRACTOR or Subcontractor performing the work shall not be marked or obliterated.
 - e. The CONTRACTOR shall inform VCTC of the location of the records enumerated under paragraph (1) above, including the street address, city and county, and shall, within five (5) working days, provide a notice of a change of location and address.
 - f. The CONTRACTOR or Subcontractor shall have ten (10) calendar days in which to comply subsequent to receipt of written notice requesting the records enumerated in paragraph (1) above. In the event the CONTRACTOR or Subcontractor fails to comply within the ten (10) day period, he or she shall, as a penalty to VCTC, forfeit one hundred dollars (\$100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Such penalties shall be withheld by VCTC from payments then due. CONTRACTOR is not subject to a penalty assessment pursuant to this section due to the failure of a Subcontractor to comply with this section.
- E. When prevailing wage rates apply, the CONTRACTOR is responsible for verifying compliance with certified payroll requirements. Invoice payment will not be made until the invoice is approved by the VCTC Contract Administrator.
- F. Penalty
- a. The CONTRACTOR and any of its Subcontractors shall comply with Labor Code §1774 and §1775. Pursuant to Labor Code §1775, the CONTRACTOR and any Subcontractor shall forfeit to the VCTC a penalty of not more than two hundred dollars (\$200) for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of DIR for the work or craft in which the worker is employed for any public work done under the AGREEMENT by the CONTRACTOR or by its Subcontractor in violation of the

requirements of the Labor Code and in particular, Labor Code §§1770 to 1780, inclusive.

- b. The amount of this forfeiture shall be determined by the Labor Commissioner and shall be based on consideration of mistake, inadvertence, or neglect of the CONTRACTOR or Subcontractor in failing to pay the correct rate of prevailing wages, or the previous record of the CONTRACTOR or Subcontractor in meeting their respective prevailing wage obligations, or the willful failure by the CONTRACTOR or Subcontractor to pay the correct rates of prevailing wages. A mistake, inadvertence, or neglect in failing to pay the correct rates of prevailing wages is not excusable if the CONTRACTOR or Subcontractor had knowledge of the obligations under the Labor Code. The CONTRACTOR is responsible for paying the appropriate rate, including any escalations that take place during the term of the AGREEMENT.
- c. In addition to the penalty and pursuant to Labor Code §1775, the difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the CONTRACTOR or Subcontractor.
- d. If a worker employed by a Subcontractor on a public works project is not paid the general prevailing per diem wages by the Subcontractor, the prime CONTRACTOR of the project is not liable for the penalties described above unless the prime CONTRACTOR had knowledge of that failure of the Subcontractor to pay the specified prevailing rate of wages to those workers or unless the prime CONTRACTOR fails to comply with all of the following requirements:
 - i. The AGREEMENT executed between the CONTRACTOR and the Subcontractor for the performance of work on public works projects shall include a copy of the requirements in Labor Code §§ 1771, 1775, 1776, 1777.5, 1813, and 1815.
 - ii. The CONTRACTOR shall monitor the payment of the specified general prevailing rate of per diem wages by the Subcontractor to the employees by periodic review of the certified payroll records of the Subcontractor.
 - iii. Upon becoming aware of the Subcontractor's failure to pay the specified prevailing rate of wages to the Subcontractor's workers, the CONTRACTOR shall diligently take corrective action to halt or rectify the failure, including but not limited to, retaining sufficient funds due the Subcontractor for work performed on the public works project.
 - iv. Prior to making final payment to the Subcontractor for work performed on the public works project, the CONTRACTOR shall obtain an affidavit signed under penalty of perjury from the Subcontractor that the Subcontractor had paid the specified general prevailing rate of per diem wages to the Subcontractor's employees on the public works project and any amounts due pursuant to Labor Code §1813.

Pursuant to Labor Code §1775, VCTC shall notify the CONTRACTOR on a public works project within fifteen (15) calendar days of receipt of a complaint that a Subcontractor has failed to pay workers the general prevailing rate of per diem wages.

If VCTC determines that employees of a Subcontractor were not paid the general prevailing rate of per diem wages and if VCTC did not retain sufficient money under the AGREEMENT to pay those employees the balance of wages owed under the general prevailing rate of per diem wages, the CONTRACTOR shall withhold an amount of moneys due the Subcontractor sufficient to pay those employees the general prevailing rate of per diem wages if requested by VCTC.

To the extent applicable, CONTRACTOR must ensure compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, CONTRACTOR shall pay wages to laborers and mechanics

at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, CONTRACTOR shall pay wages not less than once a week.

ARTICLE XV – EQUAL EMPLOYMENT OPPORTUNITY

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

- A. CONTRACTOR will not discriminate against any employee or applicant for employment because of race, color, ancestry, religion, creed, age, disability, sex, gender, sexual orientation, gender identity, gender expression, medical condition, genetic information, marital status, military status, veteran status, or national origin. CONTRACTOR will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their status under the aforementioned categories. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- B. CONTRACTOR will, in all solicitations or advertisements for employees placed by or on behalf of the CONTRACTOR, state that all qualified applicants will receive consideration for employment without regard to race, color, ancestry, religion, creed, age, disability, sex, gender, sexual orientation, gender identity, gender expression, medical condition, genetic information, marital status, military status, veteran status, or national origin.
- C. CONTRACTOR will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with CONTRACTOR's legal duty to furnish information.
- D. CONTRACTOR will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of CONTRACTOR's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- E. CONTRACTOR will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- F. CONTRACTOR will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- G. In the event of CONTRACTOR's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and

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

- H. CONTRACTOR will include the portion of the sentence immediately preceding paragraph and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. CONTRACTOR will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

VCTC will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally or state assisted construction work: Provided, that if the applicant so participating is a State, Territorial, or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

VCTC will assist and cooperate actively with the administering federal agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

VCTC agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, VCTC agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

ARTICLE XVI – CONTRACT WORK HOURS AND SAFETY STANDARDS ACT COMPLIANCE

- A. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- B. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the CONTRACTOR and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages.

Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$26 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

- C. Withholding for unpaid wages and liquidated damages. VCTC shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.
- D. Subcontracts. CONTRACTOR or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.
- E. Safety. The requirements of 40 U.S.C. 3704 are applicable to the work under this Agreement. These requirements provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. CONTRACTOR shall ensure that the work is completed under sanitary and safe conditions.

ARTICLE XVII – CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT

- A. Clean Air Act. CONTRACTOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
 - a. CONTRACTOR agrees to report each violation to the VCTC and understands and agrees that VCTC will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
 - b. CONTRACTOR agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.
- B. Federal Water Pollution Control Act. CONTRACTOR agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
 - a. CONTRACTOR agrees to report each violation to the VCTC and understands and agrees that VCTC will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
 - b. CONTRACTOR agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

ARTICLE XVIII – DEBARMENT AND SUSPENSION

- A. This Agreement is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the contractor is required to and hereby does verify that none of the contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

- B. CONTRACTOR must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- C. CONTRACTOR's certification pursuant to this section is a material representation of fact relied upon by VCTC. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to VCTC, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- D. CONTRACTOR certifies that CONTRACTOR has complied with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while its bid offer was valid and shall comply throughout the period of this Agreement. CONTRACTOR further agrees to include a provision requiring such compliance in its lower tier covered transactions.

ARTICLE XIX – ANTI-LOBBYING AMENDMENT/ANTI-KICKBACK

Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended). Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier-to-tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

CONTRACTOR shall comply with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). Pursuant to the Act, CONTRACTOR is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

ARTICLE XX – PROCUREMENT OF RECOVERED MATERIALS/DOMESTIC PREFERENCES FOR PROCUREMENTS

- A. In the performance of this Agreement, CONTRACTOR shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—
 - a. Competitively within a timeframe providing for compliance with the contract performance schedule;
 - b. Meeting contract performance requirements; or
 - c. At a reasonable price.
- B. Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
- C. CONTRACTOR also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.
- D. In the performance of this Agreement, as appropriate and to the extent consistent with law, the non-CONTRACTOR shall, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of

this section must be included in all subawards including all contracts and purchase orders for work or products under this Agreement.

ARTICLE XXI – ACCESS TO RECORDS

The following access to records requirements apply to this Agreement:

- A. CONTRACTOR agrees to provide VCTC, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of CONTRACTOR which are directly pertinent to this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions.
- B. CONTRACTOR agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- C. CONTRACTOR agrees to provide the FEMA Administrator or authorized representative[s] access to construction or other work sites pertaining to the work being completed under the Agreement.
- D. In compliance with the Disaster Recovery Act of 2018, VCTC and CONTRACTOR acknowledge and agree that no language in this Agreement is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

ARTICLE XXII – DHS SEAL, LOGO, AND FLAGS

CONTRACTOR shall not use the Department of Homeland Security (DHS) seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

ARTICLE XXIII – COMPLIANCE WITH FEDERAL LAW, REGULATION, AND EXECUTIVE ORDERS

This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the Agreement. CONTRACTOR will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives as currently applicable and as may be amended from time to time whether or not specifically referenced herein.

ARTICLE XXIV – NO OBLIGATION BY FEDERAL GOVERNMENT

The Federal Government is not a party to this Agreement and is not subject to any obligations or liabilities to the VCTC, CONTRACTOR, or any other party pertaining to any matter resulting from the Agreement.

ARTICLE XXV – PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

CONTRACTOR acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the CONTRACTOR'S actions pertaining to this Agreement.

ARTICLE XXVI – BONDING

CONTRACTOR shall obtain a performance bond from an admitted California surety for 100 percent of the contract price to secure fulfillment of all the Contractor's requirements under this Agreement.

CONTRACTOR shall obtain a payment bond from an admitted California surety for 100 percent of the contract price to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in this Agreement.

The surety for such securities shall be currently admitted to transact surety insurance by the California Department of Insurance and shall carry a Best's rating of no less than A+.

If VCTC issues NTP prior to the Contractor obtaining the required bonds, no payments will be made to the Contractor until VCTC has received the required bonds.

ARTICLE XXVII – INSURANCE

Before beginning any work under this Contract, CONTRACTOR, at its own cost and expense, unless otherwise specified below, shall procure the types and amounts of insurance listed below against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the CONTRACTOR and its agents, representatives, employees, and subcontractors. Consistent with the following provisions, CONTRACTOR shall provide proof satisfactory to VCTC of such insurance that meets the requirements of this section and under forms of insurance satisfactory in all respects, and that such insurance is in effect prior to beginning work to VCTC. CONTRACTOR shall maintain the insurance policies required by this section throughout the term of this Agreement. The cost of such insurance shall be included in the CONTRACTOR's compensation provided hereunder. CONTRACTOR shall not allow any subcontractor to commence work on any subcontract until CONTRACTOR has obtained all insurance required herein for the subcontractor(s). CONTRACTOR shall maintain all required insurance listed herein for the duration of this Agreement.

- A. Workers' Compensation. CONTRACTOR shall, at its sole cost and expense, maintain Workers' Compensation insurance as required by the State of California with Statutory Limits and Employer's Liability insurance with no less than \$1,000,000 per accident for bodily injury or disease. In the alternative, CONTRACTOR may rely on a self-insurance program to meet those requirements, but only if the program of self-insurance complies fully with the provisions of the California Labor Code. Determination of whether a self-insurance program meets the standards of the Labor Code shall be solely in the discretion of the Contract Administrator, as defined in Section 10.9. The insurer, if insurance is provided, or the CONTRACTOR, if a program of self-insurance is provided, shall waive all rights of subrogation against VCTC and its officers, officials, employees, and volunteers for loss arising from work performed under this Agreement.
- B. Commercial General and Automobile Liability Insurance.
 - a. Commercial General Liability (CGL). Insurance Services Office Form CG 0001 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit. No endorsement shall be attached limiting the coverage. Said policy shall include a Railroads CG 24 17 endorsement removing the exclusion of coverage, if applicable, for bodily injury or property damage arising out of operations within 50 feet of any railroad property and affecting any railroad bridge, trestle, tracks, roadbeds, tunnel, underpass or crossing.
 - b. Automobile Liability. Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if CONTRACTOR has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than \$1,000,000 per accident for bodily injury and property damage. Automobile coverage shall be at least as broad as Insurance Services Office Automobile Liability form CA 0001 (most recent edition). Said policy shall include a Railroads CG 24 17 endorsement removing the exclusion of coverage, if applicable, for bodily injury or property damage arising out of operations within 50 feet of any railroad property and affecting any railroad bridge, trestle, tracks, roadbeds, tunnel, underpass or crossing.
 - c. Umbrella/Excess Policy. The Contractor may use Umbrella or Excess Policies to provide the liability limits as required in this agreement. This form of insurance will be acceptable provided that all of the Primary and Umbrella or Excess Policies shall provide all of the insurance coverages herein required, including, but not limited to, primary and non-

contributory, additional insured, Self-Insured Retentions (SIRs), indemnity, and defense requirements. The Umbrella or Excess policies shall be provided on a true "following form" or broader coverage basis, with coverage at least as broad as provided on the underlying Commercial General Liability insurance. No insurance policies maintained by the Additional Insureds, whether primary or excess, and which also apply to a loss covered hereunder, shall be called upon to contribute to a loss until the Contractor's primary and excess liability policies are exhausted.

- d. Additional requirements. Each of the following shall be included in the insurance coverage or added as a certified endorsement to the policy:
 - i. The Insurance shall cover on an occurrence or an accident basis, and not on a claims-made basis.
 - ii. Any failure of CONTRACTOR to comply with reporting provisions of the policy shall not affect coverage provided to VCTC and its officers, employees, agents, and volunteers.

C. All Policies Requirements

- a. Acceptability of insurers. All insurance required by this section is to be placed with insurers with a Bests' rating of no less than A:VII.
- b. Verification of coverage. Prior to beginning any work under this Agreement, CONTRACTOR shall furnish VCTC with complete copies of all policies delivered to CONTRACTOR by the insurer, including complete copies of all endorsements attached to those policies. All copies of policies and certified endorsements shall show the signature of a person authorized by that insurer to bind coverage on its behalf. If VCTC does not receive the required insurance documents prior to the CONTRACTOR beginning work, this shall not waive the CONTRACTOR's obligation to provide them. VCTC reserves the right to require complete copies of all required insurance policies at any time.
- c. Notice of Cancellation of Coverage. A certified endorsement shall be attached to all Commercial General Liability and Automobile Liability insurance obtained pursuant to this Agreement stating that coverage shall not be suspended, voided, canceled by either party, except after thirty (30) days' prior written notice by mail has been given to VCTC. In the event that any coverage required by this section is cancelled, CONTRACTOR shall provide written notice to VCTC at CONTRACTOR's earliest possible opportunity and in no case later than ten (10) working days after CONTRACTOR is notified of the change in coverage.
- d. Additional insured; primary insurance. VCTC and its officers, employees, agents, and volunteers, and those of VCTC's partner agencies that utilize the subject data, and Sierra Northern Railway and its officers, employees, agents, and volunteers, shall be covered on the General Liability and Automobile Liability policies as additional insureds with respect to each of the following: liability arising out of activities performed by or on behalf of CONTRACTOR, including VCTC's general supervision of CONTRACTOR; products and completed operations of CONTRACTOR, as applicable; premises owned, occupied, or used by CONTRACTOR; and automobiles owned, leased, or used by the CONTRACTOR in the course of providing services pursuant to this Agreement. The coverage shall contain no special limitations on the scope of protection afforded to VCTC or its officers, employees, agents, or volunteers.

A certified endorsement must be attached to all policies stating that coverage is primary insurance with respect to VCTC and its officers, officials, employees and volunteers, and that no insurance or self-insurance maintained by VCTC shall be called upon to contribute to a loss under the coverage.

- e. Policy limits. In the event that CONTRACTOR maintains higher insurance coverage limits than those required by this Agreement, VCTC shall be entitled to those higher coverage limits.
- D. Deductibles and Self-Insured Retentions. CONTRACTOR shall disclose to and obtain the approval of VCTC for the self-insured retentions and deductibles before beginning any of the services or work called for by any term of this Agreement. Further, if the CONTRACTOR's insurance policy includes a self-insured retention that must be paid by a named insured as a precondition of the insurer's liability, or which has the effect of providing that payments of the self-insured retention by others, including additional insureds or insurers do not serve to satisfy the self-insured retention, such provisions must be modified by special endorsement so as to not apply to the additional insured coverage required by this agreement so as to not prevent any of the parties to this agreement from satisfying or paying the self-insured retention required to be paid as a precondition to the insurer's liability. Additionally, the certificates of insurance must note whether the policy does or does not include any self-insured retention and also must disclose the deductible.

During the period covered by this Agreement, only upon the prior express written authorization of Contract Administrator, CONTRACTOR may increase such deductibles or self-insured retentions with respect to VCTC, its officers, employees, agents, and volunteers. The Contract Administrator may condition approval of an increase in deductible or self-insured retention levels with a requirement that CONTRACTOR procure a bond, guaranteeing payment of losses and related investigations, claim administration, and defense expenses that is satisfactory in all respects to each of them.

- E. Subcontractors. CONTRACTOR shall include all subcontractors as insureds under its policies or shall furnish separate certificates and certified endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.
- F. Variation. VCTC may approve a variation in the foregoing insurance requirements, upon a determination that the coverage, scope, limits, and forms of such insurance are either not commercially available, or that VCTC's interests are otherwise fully protected.
- G. Remedies. In addition to any other remedies VCTC may have if CONTRACTOR fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, VCTC may, at its sole option exercise any of the following remedies, which are alternatives to other remedies VCTC may have and are not the exclusive remedy for CONTRACTOR's breach:

Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;

Order CONTRACTOR to stop work under this Agreement or withhold any payment that becomes due to CONTRACTOR hereunder, or both stop work and withhold any payment, until CONTRACTOR demonstrates compliance with the requirements hereof; and/or terminate this Agreement.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date first herein written above.

VENTURA COUNTY TRANSPORTATION COMISSION

By: _____

Date: _____

Martin R. Erickson

Executive Director

APPROVED AS TO FORM: VCTC

By: _____

Date: _____

Steven T. Mattas, General Counsel

SUMMER CONSTRUCTION, INC.

By: _____

Date: _____

Sam Bennett, President

APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

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

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

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

The Contractor, Summer Construction, Inc., certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Date

EMERGENCY CONTRACT

QUOTE

FOR

EMERGENCY CONSTRUCTION SERVICES TO PROVIDE SLOPE STABILITY FOR THE SESPE CREEK
OVERFLOW RAILROAD BRIDGE APPROACH ON THE SANTA PAULA BRANCH LINE

LOCATED IN

VENTURA COUNTY, CALIFORNIA

INCLUDING Sespe Emergency Repair Scope of Work.

NOTICE-TO-PROCEED OR THE STARTING DATE OF CONTRACT WILL BE September 9, 2024.

COMPLETION TIME IS 45 CALENDAR DAYS (SEE SECTION 1-2).

CONTRACTOR'S LICENSE CLASSIFICATION REQUIRED IS CLASS A.

INSURANCE IS REQUIRED AS SPECIFIED IN SCOPE OF WORK-SECTION 1-5 AND TEMPLATE
AGREEMENT, ARTICLE XXV.

NAME: Summer Construction, Inc.

MAILING ADDRESS: P.O BOX 30

CITY: Santa Paula STATE: CA ZIP CODE: 93061

DELIVERY ADDRESS (CONTRACT RELATED DOCS), IF DIFFERENT FROM MAILING ADDRESS:

606 Sespe Ave, Ste 101, Fillmore CA 93015

TELEPHONE NUMBER: (805) 933-9364 FAX NO. (805) 525-3000

E-MAIL ADDRESS: Summer.construction@hotmail.com

Project Name: Emergency Construction Services to Provide Slope Stability for the Sespe Creek Overflow
Railroad Bridge Approach on the Santa Paula Branch Line

INSTRUCTIONS

1. **CONTRACT TERM.** The duration of the term is approximately 67 calendar days from NTP.
2. **PRE-BID REQUIREMENTS.** There will be no mandatory pre-bid job walk or mandatory prebid conference meeting.
3. **LICENSING.** Contractor shall be licensed in accordance with the provisions of Sections 7000 through 7145 of the Business and Professions Code of the State of California in the classification required for the work bid on. The CONTRACTOR's license number, classification, and expiration date shall be inserted into the form. The CONTRACTOR's name shall correspond in all respects with the name shown on the license. License numbers and names are checked with the State.
4. **SITE INSPECTION.** Personally visit the worksite to ascertain the existence of any surface or subsurface conditions affecting the cost of the work. Access to railroad right-of-way must be coordinated with the Railroad Operator, Sierra Northern Railway, by contacting Matt Blackburn, General Manager – Ventura Division, at 530-490-1446.
5. **INTERPRETATION AND QUESTIONS.** Carefully review the scope of work for any errors, omissions, or ambiguities. If you discover any or have specific questions, notify the Commission far enough in advance of the bid opening to allow time for the issuance of appropriate written addenda, if necessary. Send the notification about any errors, omissions, ambiguities, or questions to cbrooks@goventura.org. Written addenda shall be the sole means for modifying the scope of work prior to the bid opening. The Commission shall not be bound by oral communications purportedly modifying or interpreting the scope of work regardless of when or by whom such oral communications are made and you should not rely upon such oral communications in preparing your bid. Deadline to submit questions to Caitlin Brooks (cbrooks@goventura.org) is August 23, 2024 no later than 4:00 p.m. Pacific Standard Time. Questions submitted after the deadline may or may not be answered at the discretion of VCTC. VCTC will provide formal responses via an Addenda by August 26, Close of Business.
6. **SUBCONTRACTOR LICENSE NUMBERS.** The Subcontractors and off-job fabricators list must be completed in accordance with Public Contract Code Section 4104. License numbers for subcontractors must be provided.
7. **PUBLIC WORKS CONTRACTOR REGISTRATION PROGRAM.** No contractor or subcontractor may be listed on a bid proposal for a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].
8. **INSURANCE.** Contractor and subcontractors shall maintain insurance, and provide proof of such insurance, at the levels and in accordance with the requirements outlined in the Template Agreement. The Executive Director may modify such insurance levels and requirements, at his discretion.
9. **BONDING.** Contractor shall provide a bid guarantee equivalent to five percent of the bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying the bid as assurance that the bidder will, upon acceptance of the bid, execute

such contractual documents within the time specified. Contractor shall provide the additional bonds in accordance with the requirements outlined in the Template Agreement.

10. **FEDERAL REQUIREMENTS.** This project may be funded by federal funds. As such, the Template Agreement includes all federally-required contract provisions. Contractors shall comply with all federal requirements in the performance of the work.
11. **TEMPLATE AGREEMENT.** Review the sample agreement template and indicate acceptance of proposed terms. VCTC reserves the right to modify or add additional terms to the template agreement as part of negotiations with the selected proposer.
12. **NON-COLLUSION AFFIDAVIT.** Contractor shall submit a Non-Collusion affidavit.
13. **DEBARMENT AND SUSPENSION CERTIFICATION.** Contractor shall submit a Debarment Certification.
14. **LABOR COMPLIANCE MONITORING.** This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. The Prime Contractor shall post job site notices prescribed by regulation. See Chapter 8 of the California Code Regulation section 16451 (d) for notice that previously was required for projects monitored by the Compliance Monitoring Unit.
15. **QUOTE SELECTION.** The selection and award of Contractor will be made on a "low bid" basis. Under this procurement approach, VCTC may prioritize non-price factors, such as responsiveness and reasonableness, over price and therefore award a contract to a contractor whose proposal includes not the lowest priced offer but reflects a better overall value to VCTC (e.g. "best value" contracting). Contracts will be evaluated on "responsiveness" (i.e. contractor includes all the requested documents listed above in the bid) and "reasonableness" (i.e. bid is generally in alignment with the independent engineer cost estimate).



Bond No. N/A

KNOW ALL MEN BY THESE PRESENTS, that we, SUMMER CONSTRUCTION, INC.

as principal, and the **GREAT AMERICAN INSURANCE COMPANY**, a corporation existing under the laws of the State of Ohio, having its Administrative Office at 301 E. Fourth Street, Cincinnati, Ohio 45202, as surety, are held and firmly bound unto VENTURA COUNTY TRANSPORTATION COMMISSION

as obligee, in the penal sum of Five Percent of Amount Bid

Dollars (\$ 5% of Amount Bid), lawful money of the United States of America, for the payment of which, well and truly to be made, we bind ourselves, our heirs, executors, administrator, successors and assigns, Jointly and severally, firmly by these presents.

SIGNED, sealed and dated this 26th day of September, 2024.

WHEREAS, the said principal SUMMER CONSTRUCTION, INC.

herewith submitting bid proposal for Sespe Creek Overflow Railroad Bridge Approach and Embankment Repairs

NOW, THEREFORE, the condition of this obligation is such that, if the said principal shall be awarded the said contract, and shall within (N/A) days after receiving notice of such award enter into a contract and give bond for the faithful performance of the contract, then this obligation shall be null and void otherwise the principal and surety will pay unto the obligee the difference in money between the amount of the principal's bid and the amount for which the obligee may legally contract with another party to perform the work, if the latter amount be in excess of the former; but in no event shall the liability hereunder exceed the penal sum hereof.

SUMMER CONSTRUCTION, INC.

[Signature]
- President
Principal

GREAT AMERICAN INSURANCE COMPANY

By: [Signature]
An M. Pham, Attorney-in-Fact

GREAT AMERICAN INSURANCE COMPANY®

Administrative Office: 301 E 4TH STREET • CINCINNATI, OHIO 45202 • 513-369-5000 • FAX 513-723-2740

The number of persons authorized by this power of attorney is not more than **THREE**

No. 0 21694

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That the GREAT AMERICAN INSURANCE COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Ohio, does hereby nominate, constitute and appoint the person or persons named below, each individually if more than one is named, its true and lawful attorney-in-fact, for it and in its name, place and stead to execute on behalf of the said Company, as surety, any and all bonds, undertakings and contracts of suretyship, or other written obligations in the nature thereof; provided that the liability of the said Company on any such bond, undertaking or contract of suretyship executed under this authority shall not exceed the limit stated below.

Name	Address	Limit of Power
NIP PHAM	ALL OF	ALL
TUAN PHAM	CUPERTINO,	\$100,000,000
AN M. PHAM	CALIFORNIA	

This Power of Attorney revokes all previous powers issued on behalf of the attorney(s)-in-fact named above.

IN WITNESS WHEREOF the GREAT AMERICAN INSURANCE COMPANY has caused these presents to be signed and attested by its appropriate officers and its corporate seal hereunto affixed this **23RD** day of **SEPTEMBER**, 2021



Atty L C B

Assistant Secretary

GREAT AMERICAN INSURANCE COMPANY

Mark V Vicario

Divisional Senior Vice President

MARK VICARIO (877-377-2405)

STATE OF OHIO, COUNTY OF HAMILTON - ss:

On this **23RD** day of **SEPTEMBER**, 2021, before me personally appeared **MARK VICARIO**, to me known, being duly sworn, deposes and says that he resides in Cincinnati, Ohio, that he is a Divisional Senior Vice President of the Bond Division of Great American Insurance Company, the Company described in and which executed the above instrument; that he knows the seal of the said Company; that the seal affixed to the said instrument is such corporate seal; that it was so affixed by authority of his office under the By-Laws of said Company, and that he signed his name thereto by like authority.



SUSAN A KOHORST
Notary Public
State of Ohio
My Comm. Expires
May 18, 2025

Susan A Kohorst

This Power of Attorney is granted by authority of the following resolutions adopted by the Board of Directors of Great American Insurance Company by unanimous written consent dated June 9, 2008.

RESOLVED: That the Divisional President, the several Divisional Senior Vice Presidents, Divisional Vice Presidents and Divisional Assistant Vice Presidents, or any one of them, be and hereby is authorized, from time to time, to appoint one or more Attorneys-in-Fact to execute on behalf of the Company, as surety, any and all bonds, undertakings and contracts of suretyship, or other written obligations in the nature thereof; to prescribe their respective duties and the respective limits of their authority; and to revoke any such appointment at any time.

RESOLVED FURTHER: That the Company seal and the signature of any of the aforesaid officers and any Secretary or Assistant Secretary of the Company may be affixed by facsimile to any power of attorney or certificate of either given for the execution of any bond, undertaking, contract of suretyship, or other written obligation in the nature thereof, such signature and seal when so used being hereby adopted by the Company as the original signature of such officer and the original seal of the Company, to be valid and binding upon the Company with the same force and effect as though manually affixed.

CERTIFICATION

I, **STEPHEN C. BERAHA**, Assistant Secretary of Great American Insurance Company, do hereby certify that the foregoing Power of Attorney and the Resolutions of the Board of Directors of June 9, 2008 have not been revoked and are now in full force and effect.

Signed and sealed this **26th** day of **August**, 2024



Atty L C B

Assistant Secretary

ACKNOWLEDGMENT

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

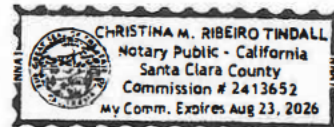
State of California
County of Santa Clara

On AUG. 26, 2024 before me, Christina M. Ribeiro Tindall, Notary Public
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.



Signature Christina M. Ribeiro Tindall (Seal)

Project Name: Emergency Construction Services to Provide Slope Stability for the Sespe Creek Overflow Railroad Bridge Approach on the Santa Paula Branch Line

Contractor's Name:

Summer Construction, Inc.

List of Subcontractors

Listing shall comply with the provisions of California Public Contract Code, Section 4104.

Name of Subcontractor	Contractor's License Number	Business Address	DIR Registration #	Items of Work
Forefront Deep Foundations	1010819	Newport Beach, CA	1000048820	Piling & Pile Removal

If more space is needed, attach additional sheets.

Public Contract Code Section 4104 provides that bidders must list:

(a)(1) The name, the location of the place of business, and the California contractor license number of each subcontractor who will perform work or labor or render service to the prime contractor in or about the construction of the work or improvement, or a subcontractor licensed by the State of California who, under subcontract to the prime contractor, specifically fabricates and installs a portion of the work or improvement according to detailed drawings contained in the plans and specifications, in an amount in excess of one-half of 1 percent of the prime contractor's total bid or, in the case of bids or offers for the construction of streets or highways, including bridges, in excess of one-half of 1 percent of the prime contractor's total bid or ten thousand dollars (\$10,000), whichever is greater.

(b) The portion of the work that will be done by each subcontractor under this act. The prime contractor shall list only one subcontractor for each portion as is defined by the prime contractor in his or her bid.

Project Name: Emergency Construction Services to Provide Slope Stability for the Sespe Creek Overflow
Railroad Bridge Approach on the Santa Paula Branch Line

Schedule of Work and Prices

Dated: 8/28/2024
At: Fillmore, California
(City and State)

Signature: [Signature]
Printed Name: Sam Bennett
Position: President
(Sole Owner, Partner, President, etc.)

License No. 597494
License
Classification: A

Company Name: Summer Construction, Inc.
Type of
Organization: Corporation
(Individual, Partnership, Corporation, etc.)

License
Expiration
Date: 6/30/2026

Contractor's DIR
Registration #: 1000004997

**Non-Collusion Declaration to be
Executed by Bidder and Submitted with Bid**

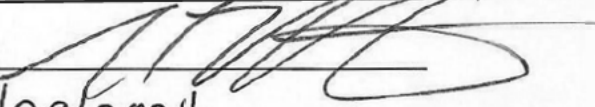
To the Ventura County Transportation Commission
The undersigned declares:

I am the President of Summer Construction Inc. the party making the foregoing bid. In accordance with Title 23 United States Code Section 112 and Public Contract Code Section, 7106 the bidder declares that the bid is not made in the interest of, or on the behalf of, any undisclosed person, partnership, company, association, organization or corporation. The bid is genuine and not collusive or sham. The bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, or that anyone shall refrain from bidding. The bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract. All statements contained in the bid are true. The bidder has not, directly, or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, 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, and has not paid, and will not pay, any person or entity for such purpose.

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on 8/28/2024 (date), at Fillmore (city), California (state).

Name of Bidder: Summer Construction, Inc.

Signature: 

Date: 8/28/2024

SUMMER CONSTRUCTION, INC.
P.O Box 30
Santa Paula, CA 93061
CSLB # 597494 DIR#1000004997
Off. (805) 933-9364 & Fax. (805) 525-3000

Date: August 28, 2024

To: Ventura County Transportation Commission
751 E. Daily Drive, Suite 420, Camarillo CA 93010

Attn: Amanda Fagan

RE: BRIEF WORKPLAN TO DEMONSTRATE UNDERSTANDING OF THE PROJECT

To Whom it May Concern,

Summer Construction Inc.'s brief workplan for this project is as follows.

- Turn in Submittals
- Order Piles
- Mark for Dig-Alert
- Place Construction Area Signs
- Mobilize Equipment to Facilitate Access Road
- Install Diversion System and Build Access Road for Crane/Equipment to remove existing damaged concrete panels and piles. Remove timber ties and hardware. Also, remove the jointed rail for salvage along with the cable railing.
- Construct Access over existing tracks to accommodate crane for pile driving. Start pile driving to desired depth. Excavate for the installation of Class I Riprap.
- Install Class I Rock
- Place Filter Fabric
- Place 12" Class II Base
- Install Backfill Material along with the Class 8 Riprap simultaneously until completed
- Remove access ramps and clean up
- Final Cleanup & Demobilize Equipment

Sincerely,



Sam Bennett
Project Manager

Experience Statement- Summer Construction, Inc.

Project: 07-4X4104

\$72,609.00

03/27/2015

Owner: State of California Department of Transportation

1727 30th Street Sacramento, CA

[REDACTED]

[REDACTED]

Description of Work: Concrete Repair and Culvert Replacement.

Project: 07-2X8304

\$2,509,450.00

08/29/2014

Owner: State of California Department of Transportation

1727 30th Street Sacramento, CA

[REDACTED]

[REDACTED]

Description of Work: Roadway and Storm Damage Repair

Project: Santa Felicia Dam

\$ 89,178.00

12/03/2014

Owner: United Water Conservation District

[REDACTED]

[REDACTED]

Description of Work: Remove and Replace Cobble Blanket

Project: Santa Paula Union High School- Science and Technology Building

\$ 257,593.00

01/29/2015

Owner: Santa Paula Union High School District

500 E. Santa Barbara St. Santa Paula, CA

[REDACTED]

[REDACTED]

Description of Work: Earthwork. Grading, excavation, and parking lot construction.

Project: Real Debris Basin 2011

\$ 86,436.00

08/08/2011
Owner: County of Ventura
800 S. Victoria Ave. Ventura CA
[REDACTED]

Description of Work: Debris removal and disposal.

Project: LA Arts- Amphitheatre
\$ 92,222.00
01/21/2015
Owner: LACOE
9300 Imperial Highway Downey, CA
[REDACTED]

Description of Work: Site Clearing: Clear and Grub, Trash/ Debris Removal, Grading and Excavating.

Project: Surfer's Point Cobble Nourishment
\$ 369,367.00
02/25/2014
Owner: City of Ventura
501 Poli Street Ventura, CA
[REDACTED]
[REDACTED]

Description of Work: Remove and replace cobble blanket.

Project: 10A1558
\$126,357.00
09/20/2013
Owner: State of California
1727 30th Street Sacramento, CA 95816
[REDACTED]
[REDACTED]

Description of Work: Repair Failed Slope, Install Pipe, Place Rock Slope Protection.

Project: USC- McAlister Field Renovations (Soccer Field)
\$134,776.00
06/04/2014
Owner: USC- Capital Construction Development
3434 S. Grand Ave. Los Angeles, CA

Description of Work: Demolition and Earthwork

Project: Dodger Stadium Field Renovations
\$108,199.00
04/04/2013

Owner: Los Angeles Dodgers LLC.
1000 Elysian Park Ave Los Angeles, CA

Description of Work: Grading Services

Project: Olivas Links Target Green

\$ 174,096.00

12/08/2014

Owner: City of Ventura

501 Poli Street Ventura, CA [REDACTED]

Description of Work: Reshape Target Greens, install base, artificial turf and decomposed granite.

Project: 07-1X8004

\$ 3,600,000.00

01/2016

Owner: State of California Department of Transportation

[REDACTED]

[REDACTED]

Description of Work: Fire Damage/Slope Repair Highway 101/001 Ventura

Project: Malibu High School

\$1,774,597.79

2017-2018

Owner: Malibu Unified School District

[REDACTED]

(GC) Angeles Contractor, Inc.

Description of Work: Grading/Paving

Project: Santa Monica Debris Basin

\$ 1,125,963.00

08/01/2018

Owner: Santa Barbara County Flood Control District

[REDACTED]

[REDACTED]

Description of Work: Debris Basin Restoration

Project: 07-1XJ704

\$ 6,412,833.90

12/2019

Owner: State of California Department of Transportation

[REDACTED]
[REDACTED]

Description of Work: Repair Eroded Slopes and Construct Rock Slope Protection

Project: 07-1XG004

\$ 1,256,082.08

03/06/20

Owner: State of California Department of Transportation

[REDACTED]
[REDACTED]

Description of Work: Replace existing RCB with Precast RCB and Roadway Repair

Project: 07-1XN504

\$685,456.61

03/2020

Owner: State of California Department of Transportation

[REDACTED]
[REDACTED]

Description of Work: Remove and Replace eroded CMP and repair damaged roadway

Project: 07-1XN804

\$648,597.40

08/2020

Owner: State of California Department of Transportation

[REDACTED]
[REDACTED]

Description of Work: Repair eroded slope and undermined shoulder and reconstruct Rock Slope Protection and guardrail

Project: Ojai Fire Station No.20

\$373,320.16

06/2021

Owner: County of Ventura

[REDACTED]
[REDACTED] (GC) Ardalan Construction

Description of Work: Grading

Project: Valley Center Well

\$79,490.00

6/2021

Owner: Santa Clarita Valley Water Agency

[REDACTED]

Arcelio Aguilar (GC) GSE Construction

Description of Work: Grading

Project: Pinetree Community School Improvements

\$365,699.00

Complete: 2023

Owner: Sulphur Springs Union School District

[REDACTED]

Tony Traverso (GC) AMG and Associates

Description of Work: Grading/Paving

Project: Pinetree School SSC & Renovation

\$196,355.00

Complete: 2023

Owner: Sulphur Springs Union School District

[REDACTED]

[REDACTED] (GC) AMG and Associates

Description of Work: Time and Material

Project: Faith Community Church

\$119,669.00

Complete:

Owner: Faith Community Church

[REDACTED]

[REDACTED] (GC) SBS Corporation

Description of Work: Grading/Paving

Project: Rose Ave ES Reconstruction

\$1,480,335.00

Current 2021-2024

Owner: Oxnard School District

[REDACTED]

GC: Balfour Beatty Construction

Project: Los Angeles Valley Community College Coldwater Extension

\$293,013.00

Complete: 2023

Owner: Los Angeles Valley Community College District

[REDACTED]

GC: Waisman Construction, Inc.

Description of Work: Demo, Earthwork and Grading

Project: Royal High School East, West, MPR Plaza Improvements

\$616,644.00

Complete: 2023

Owner: Simi Valley Unified School District

[REDACTED]

GC: Balfour Beatty Construction

Description of Work: Demo, Earthwork and Grading

Project: Old Telegraph Bridge #485 Emergency Repairs

\$728,239.48

Complete: 2024

Owner: County of Ventura

Description of Work: Emergency Repairs Bridge#485, Place Rock

Project: 07-2XE104

\$6,500,000.00

Estimated Completion: 12/2024

Owner: Department of Transportation

[REDACTED]

Description of Work: Storm Damage Repair, Highway 126 various post miles

SUMMER CONSTRUCTION, INC.
P.O Box 30
Santa Paula, CA 93061
CSLB # 597494 DIR#1000004997
Off. (805) 933-9364 & Fax. (805) 525-3000

Date: August 28, 2024

To: Ventura County Transportation Commission
751 E. Daily Drive, Suite 420, Camarillo CA 93010

Attn: Amanda Fagan

RE: PROPOSED TIMELINE/SCHEDULE TO COMPLETE PROJECT

To Whom it May Concern,

Summer Construction Inc.'s Proposed Timeline/Schedule to complete project is as follows.

- 36 Working Days (on-job)
- 8 Days Lead Time (Pile Delivery) after submittal approval
- 44 Days Total
- Estimated Completion Time 11/08/2024

Sincerely,



Sam Bennett
Project Manager

Bidder:

Summer Construction, Inc.

Final Bid List					
SPECIAL PROVISION NUMBER	ITEM/WORK DESCRIPTION	UNIT	QUANTITY	UNIT COST	TOTAL COST
2-1	Diversion system	LS	1	\$ 60,000.00	\$ 60,000.00
3-1	Structure Backfill	CY	360.0	\$ 150.00	\$ 54,000.00
3-1	Class 2 Aggregate Base	CY	23.7	\$ 753.00	\$ 17,846.10
3-1	Class 1 Rip Rap (Rock Slope Protection), Method B Installation	CY	118.0	\$ 417.00	\$ 49,206.00
3-1	Class 8 Rock Slope Protection Fabric	SQYD	450.0	\$ 35.00	\$ 15,750.00
3-1	Class 8 Rip Rap (Rock Slope Protection), Method B Installation	CY	275.0	\$ 325.00	\$ 89,375.00
4-1	Remove and dispose timber ties and hardware	TF	250	\$ 85.00	\$ 21,250.00
4-1	Remove and dispose abutment precast concrete backwall panels and piles	LS	1	\$ 61,255.00	\$ 61,255.00
4-1	Remove and salvage jointed rail	TF	250	\$ 90.00	\$ 22,500.00
4-1	Salvage and Removal of Existing Cable Handrail	LS	1.0	\$ 5,000.00	\$ 5,000.00
5-1	Furnish and Deliver Pile (HP10x57 each) (Approximately 43ft barrier @ 2'3" pile spacing)	LF	767.9	\$ 98.00	\$ 75,254.20
5-1	Drive Steel Pile (HP10x57 each) (Approximately 43ft barrier @ 2'3" pile spacing)	LF	767.9	\$ 100.00	\$ 76,790.00
Subtotal					\$ 548,226.30
1-3.4(1-3.5)	Mobilization/demobilization	LS	1	275000%	\$ 275,000.00
Total					\$ 823,226.30
OPTION 1					
6-1	Option 1.A Procure and Install Emergency Rip Rap	CY	165.0	\$ 375.00	\$ 61,875.00
6-3	Option 1.B Mobilization/Demobilization (potholing)	LS	1.0	\$ 60,000.00	\$60,000.00
Total					\$ 945,101.30