Agenda

County of Inyo
Board of Supervisors

Board of Supervisors Room
County Administrative Center
224 North Edwards
Independence, California

All members of the public are encouraged to participate in the discussion of any items on the Agenda. Anyone wishing to speak, please obtain a card from the Board Clerk and indicate each item you would like to discuss. Return the completed card to the Board Clerk before the Board considers the item (s) upon which you wish to speak. You will be allowed to speak about each item before the Board takes action on it.

Any member of the public may also make comments during the scheduled "Public Comment" period on this agenda concerning any subject related to the Board of Supervisors or County Government. No card needs to be submitted in order to speak during the "Public Comment" period.

***Public Notices**: (1)* In Compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting please contact the Clerk of the Board at (760) 878-0373. (28 CFR 35.102-35.104 ADA Title II). Notification 48 hours prior to the meeting will enable the County to make reasonable arrangements to ensure accessibility to this meeting. Should you because of a disability require appropriate alternative formatting of this agenda, please notify the Clerk of the Board 72 hours prior to the meeting to enable the County to make the agenda available in a reasonable alternative format. (Government Code Section 54954.2). *(2)* If a writing, that is a public record relating to an agenda item for an open session of a regular meeting of the Board of Supervisors, is distributed less than 72 hours prior to the meeting, the writing shall be available for public inspection at the Office of the Clerk of the Board of Supervisors, 224 N. Edwards, Independence, California and is available per Government Code § 54957.5(b)(1).
Note: Historically the Board does break for lunch, the timing of a lunch break is made at the discretion of the Chairperson and at the Board's convenience.

April 15, 2014

8:00 a.m. 1. ***PUBLIC COMMENT***

CLOSED SESSION

2. ***CONFERENCE WITH LABOR NEGOTIATOR [Pursuant to Government Code § 54957.6].*** - Instructions to Negotiators re: wages, salaries and benefits - Employee Organization: Deputy Sheriff's Association (DSA) - Negotiators: Labor Relations Administrator, Sue Dishion, Information Services Director, Brandon Shults, and Planning Director Josh Hart.

3. ***CONFERENCE WITH LABOR NEGOTIATOR [Pursuant to Government Code § 54957.6].*** Instructions to Negotiators re: wages, salaries and benefits - Employee Organization: Elected Officials Assistant Association (EOAA) - Negotiators: Information Services Director Brandon Shults, and Labor Relations Administrator Sue Dishion.

4. ***CONFERENCE WITH LABOR NEGOTIATOR [Pursuant to Government Code § 54957.6].*** - Instructions to Negotiators re: wages, salaries and benefits - Employee Organization: Inyo County Correctional Officers Association (ICCOA) - Negotiators: Information Services Director Brandon Shults, and Labor Relations Administrator Sue Dishion.

5. ***CONFERENCE WITH LABOR NEGOTIATOR [Pursuant to Government Code § 54957.6].*** - Instructions to Negotiators re: wages, salaries and benefits - Employee Organization: Inyo County Correctional Officers Association (ICPPOA) - Negotiators: Information Services Director Brandon Shults, and Labor Relations Administrator Sue Dishion.

6. ***CONFERENCE WITH LABOR NEGOTIATOR [Pursuant to Government Code §54957.6].*** - Instructions to Negotiators re: wages, salaries and benefits - Employee Organization: ICEA - Negotiators: Labor Relations Administrator Sue Dishion, and Information Services Director Brandon Shults.

7. ***CONFERENCE WITH LABOR NEGOTIATOR [Pursuant to Government Code § 54957.6].*** - Instructions to Negotiators re: wages, salaries and benefits - Employee Organization: Law Enforcement Administrators' Association (LEAA) - Negotiators: Information Services Director Brandon Shults and Labor Relations Administrator Sue Dishion.

OPEN SESSION

8:15 a.m. ***PLEDGE OF ALLEGIANCE***

8. ***REPORT ON CLOSED SESSION AS REQUIRED BY LAW.***

9. ***PUBLIC COMMENT***

CONSENT AGENDA (Approval recommended by the County Administrator)

COUNTY ADMINISTRATOR

10. ***Emergency Services*** - Request Board continue the local emergency, The Death Valley Roadeater Emergency, that resulted in flooding in the eastern portion of Inyo County during the month of August 2012, per Resolution #2012-32, as recommended by the County Administrator.

11. ***Emergency Services*** - Request Board continue the local emergency, The Gully Washer Emergency that resulted in flooding in the central, south and southeastern portion of Inyo County during the month of July, 2013, as recommended by the County Administrator.

12. ***Emergency Services*** - Request Board continue the local emergency, The Canyon Crusher Emergency, that resulted in flooding in the portions of Inyo County during the month of August, 2013, was recommended by the County Administrator.

13. ***Emergency Services*** – Request Board continue the local emergency, known as the "Land of EVEN Less Water Emergency" that was proclaimed as a result of extreme drought conditions that exist in the County as recommended by the County Administrator.

14. ***Public Defender*** – Request Board approve Amendment No. 1 to the Contracts between the County of Inyo and the following for public defender services deleting the provisions stated in paragraphs 10 – Workers Compensation and 11 – Insurance, and adding Exhibit E – Insurance Requirements for Professional Services; and authorize the Chairperson to sign, contingent upon the appropriate signatures being obtained: Sophie C. Bidet; Kristine Eisler and Josh Hillemeier.

PLANNING

15. Request approval of Amendment No. 1 to the Contract between the County of Inyo and CAJA Environmental Services for the provision of environmental services for the EIR for the Northland Power Independence, LLC Solar Project, to specify per diem and travel cost reimbursements; and authorize the Chairperson to sign.

PUBLIC WORKS - ROAD

16. Request approval of Amendment No. 2 to the Agreement between the County of Inyo and ISL Engineering, Inc., extending the ending date of the Contract from May 5, 2014 to December 31, 2014; and authorize the Chairperson to sign.

17. Request Board award the bid and approve the purchase of heat equipment for the Statham Hall Building in Lone Pine, from Technology International, Inc. of Lake Mary Florida, in an amount not to exceed $39,110.10.

18. Request Board rescind Resolution No. 2013-46 that adopted the Inyo County Labor Compliance Program; and approve the revised Labor Compliance Program for Inyo County and the Resolution adopting the revised Program.

19. Request approval of the Contract between the County of Inyo and Astro Painting Company for the repair and replacement of the existing stucco and the repainting/refinishing of the existing doors and windows at the Independence American Legion Hall in an amount not to exceed $13,500; and authorize the Chairperson to sign, contingent upon the appropriate signatures being obtained.

20. Request Board declare Wulfenstein Construction Company a sole source provider of cold mix asphalt and authorize the purchase of 150 tons of cold mix asphalt from Wulfenstein Construction Company in an amount not to exceed $13,365.

21. Request Board approve and ratify the Amendment to the Contract with Hertz Equipment Rental for rental equipment to expedite emergency road openings in the southeastern portion of the County, increasing the contract amount by $100,000 to an amount not to exceed $400,000; and authorize the Chairperson to sign, contingent upon the appropriate signatures being obtained.

SHERIFF

22. Request approval of the 2014 Domestic Cannabis Eradication/Suppression Program Letter of Agreement in the amount of $10,000, contingent upon the Board's adoption of future budgets; authorize the Sheriff to sign the agreement; and authorize the Assistant Treasurer-Tax Collector to sign on behalf of the Treasurer-Tax Collector as the authorized agency representative to enable electronic fund transfer when available.

23. Request approval of the Application for the 2014 Financial & Operation Plan for Controlled Substance Operations U.S. Forest Service reimbursement in the amount of $7,769.24, contingent upon the Board's adoption of a FY 2014-15 Budget; and authorize the Sheriff and the Chairperson to sign the Agreement and all necessary documents.

WATER DEPARTMENT

24. Request approval of Amendment No. 1 to the Contract between the County of Inyo and Ecosystem Sciences, Inc., to revise the scope of work under Task 4 of the 2013-14 Contract, to allow Ecosystem Sciences to pay up to $1,200 in honorariums to fishermen who participate in and complete a creel census to be held in May of 2014, allow Ecosystem Sciences to bill $144 for administrative labor and expenses needed to complete this task by moving $1,344 from Task 7 to Task 4 for the creel census; and authorize the Chairperson to sign, contingent upon the appropriate signatures being obtained.

DEPARTMENTAL (To be considered at the Board's convenience)

25. ***WATER DEPARTMENT*** – Request Board provide direction to the County's Representatives to the Standing Committee regarding the April 22, 2014 Agenda for the Inyo County/Los Angeles Standing Committee Meeting to be held in Los Angeles at the John Ferraro Building Board Room, beginning at 1:00 p.m. *(draft agenda attached).*

26. ***AGRICULTURAL COMMISSIONER*** – Request Board approve a resolution titled "A Resolution of the Inyo County Board of Supervisors, Authorizing and Approving an Inyo County Treasury Bridge Loan to the Inyo Mono County Agricultural Commissioner's Office."

27. ***PUBLIC WORKS*** – Request Board

A) make the following findings as recommended by the Planning Commission for the Negative Declaration: (1) that the project will not have a significant effect on the environment; (2) that the Negative Declaration reflects the County's independent judgment and analysis; (3) specify that the Inyo/Mono Agricultural Commissioner is the custodian and the location of the documents and other material which constitute the record of proceedings upon which the decision is based; (4) adopt the Negative Declaration for the Inyo and Mono Counties Agriculture Department (Ag. Dept.) Storage Building Project and (5) certify that the provisions of the California Environmental Quality Act have been satisfied;

B) award and approve the Contract for the Ag Dept. Storage Building Project to Rudolph Construction, Inc., in the amount of $567,621, and authorize the Chairperson to sign, contingent upon the appropriate signatures being obtained;

C) authorize the Public Works Director to sign all other Contract documents, including change orders, to the extent permitted pursuant to Section 20142 of the Public Contract Code and other applicable law; and

D) amend the FY 2013-14 Agriculture Commissioner Budget Unit 02330 by increasing estimated revenue in Other Agency *(Revenue Code #4599)* by $248,597; Operating Transfer In *(Revenue Code #4998)* by $284,948 and Loan Proceeds *(Revenue Code #4990)* by $100,000; and increasing appropriations in Structures and Improvements *(Object Code #5640)* by $633,545. *(4/5's vote required.)*

28. ***PUBLIC WORKS*** – Request Board receive a report on the Town Water Systems and direct staff to negotiate a contract with Wilder Barton, Inc., to operate the County owned Lone Pine, Independence and Laws Town Water Systems and to implement a transition plan for the operations.

29. ***SHERIFF*** - find that consistent with the adopted Authorized Position Review Policy: A) the availability of funding for the requested positions comes from the General Fund, as certified by the Sheriff and concurred with by the County Administrator and Auditor Controller; B) where it is unlikely that all of the positions could be filled through internal recruitments an open recruitment is appropriate to ensure qualified applicants apply; C) approve the internal recruitment and filling of one Corporal position at Range 070SA-070SD ($4,511 - $6,200); D) approving the hiring of one Deputy position at Range 67SA–67SC ($4,107 - $5,510) and second Deputy if both the first and second positions can be filled through lateral placement; and authorize hiring up to the D step for qualified lateral applicants; and E) approve the open recruitment and hiring of one Correctional Officer at Range 64 ($3,735 - $4,539).

30. ***SHERIFF*** – Request Board

    A) declare Dell as a sole source provider of computer servers and authorize the purchase of a Dell R520 Server for the RIMS System from Dell in an amount not to exceed $8,997.20 including taxes;

    B) declare Concept Development corporation a sole source provide of robot adapter systems and authorize the purchase of a CarbonFire 10 Robot Adapter System from Concept Development Corporation in an amount not to exceed $5,995.60, including taxes;

    C) award the bid to Adamson Police products for the purchase of 3 Protech FAV MKII enhanced SM01 tactile medic vests in an amount not to exceed $7,660.98 including taxes;

    D) declare Digital Ally a sole source provider of body cameras and video car cameras and authorize the purchase of the following from Digital Ally: 30-FirstVu HD officer-worn body cameras in an amount not to exceed $27,758 including taxes and 15-DVM 800 Digital video system car cameras in an amount not to exceed $54,944 including taxes;

    E) declare Med-Eng a sole source provider of safety equipment and authorize the purchase of EOD 9 suit with visor kit and helmet from Med-Eng in an amount not to exceed $24,895.44 including taxes; and

    F) amend the FY 2013-14 Sheriff's General Budget Unit 022700 by increasing estimated revenue in Citizens Options Public Safety Revenue *(Revenue Code #4488)* by $130,216; and increasing appropriations in Equipment *(Object Code #5650)* by $14,993 and Law Enforcement Special *(Object Code #5313)* by $115,223. *(4/5's vote required).*

31. ***COUNTY ADMINISTRATOR – Motor Pool*** – Request Board donate a surplus 2005 Ford Expedition, asset number 8390, license number 5LGW991 to the Olancha/Cartago Fire Department. *(4/5's vote required.)*

TIMED ITEMS (Items will not be considered before scheduled time)

9:15 a.m. 32. ***INYO NATIONAL FOREST*** – Mr. Ed Armenta, Inyo National Forest Supervisor, will update the Board on Inyo Forest Plan Update/Revision MOU and other Forest Service issues.

33. ***PLANNING DEPARTMENT*** – Request Board A) receive a presentation from staff about coordination with Forest Service staff regarding the Inyo National Forest Plan Update/Revision and provide input; and B) review the Memorandum of Understanding in regards thereto and authorize the Chairperson to sign.

10:00 a.m. to 12:00 p.m. 34. ***PRESENTATION*** – Representatives from the City of Los Angeles Department of Water and Power (LADWP) will discuss the integrated energy resource plans including current thoughts related to the Southern Owens Valley Solar Ranch Project with the Board of Supervisors.

CORRESPONDENCE - ACTION

BOARD MEMBERS AND STAFF REPORTS

COMMENT (Portion of the Agenda when the Board takes comment from the public and County staff)

35. ***COUNTY DEPARTMENT REPORTS*** *(Reports limited to two minutes)*

36. ***PUBLIC COMMENT***

CORRESPONDENCE - INFORMATIONAL

37. ***GOVERNOR'S OFFICE OF EMERGENCY SERVICES*** – Letter concerning proclamation of Drought Emergency.

38. ***ENVIRONMENTAL HEALTH*** – Proposition 65 Report of a diesel spill on U.S. 395 northbound south of Fort Independence Road.

DRAFT

AGENDA

INYO COUNTY/LOS ANGELES STANDING COMMITTEE

1:00 p.m.
April 22, 2014

Board Room 1555-H, John Ferraro Building
111 North Hope Street
Los Angeles, California

The public will be offered the opportunity to comment on each agenda item prior to any action on the item by the Standing Committee or, in the absence of action, prior to the Committee moving to the next item on the agenda. The public will also be offered the opportunity to address the Committee on any matter within the Committee's jurisdiction prior to adjournment of the meeting.

1. **Action Item:** Approval of documentation of actions from the February 7, 2014 meeting.

2. Runoff and operations update.

3. **Action Item:** Request pursuant to Water Agreement Section XXVI.B for resolution of issues concerning vegetation parcel Blackrock 94.

    a. Presentation by Los Angeles (limited to twenty minutes)

    b. Presentation by Inyo County (limited to twenty minutes)

4. Lower Owens River Project

    a. Consultation with California Department of Fish and Wildlife regarding agenda item 4b

    b. **Action Item:** Setting Seasonal Habitat Flow - Consideration of Technical Group recommendation regarding setting the seasonal habitat flow.

    c. Consultation with California Department of Fish and Wildlife regarding agenda item 4d

    d. **Action Item:** Establishment of Dry Year Blackrock Management Plan - Consideration of Technical Group recommendation regarding the Blackrock Waterfowl Management Area flooded acreage

5. **Action Item:** Consideration of modification of the Van Norman Enhancement/Mitigation Project

6. Public Comment.

7. Confirm schedule for future Standing Committee meetings.

8. Adjourn.

Standing Committee meeting protocols (Adopted May 11, 2011)

The Inyo/Los Angeles Long-Term Water Agreement (LTWA) define the Standing Committee in Section II:

As agreed by the parties, the Department representatives on the Standing Committee shall include at least one (1) member of the Los Angeles City Council, the Administrative Officer of the City of Los Angeles, two (2) members of the Board of Water and Power Commissioners, and three (3) staff members. The County representatives on the Standing Committee shall be at least one (1) member of the Inyo County Board of Supervisors, two (2) Inyo County Water Commissioners, and three (3) staff members.

The LTWA further provides that:

Regardless of the number of representatives from either party in attendance at a Standing Committee or Technical Group meeting, Inyo County shall have only one (1) vote, and Los Angeles shall have only one (1) vote.

The Standing Committee adopts the following protocol for future Standing Committee meetings.

1. In order for the Standing Committee to take action at a meeting, representation at the meeting will consist of at least four representatives of Los Angeles, including one member of the Los Angeles City Council or Water and Power Commission, and four representatives of Inyo County, including one member of the Board of Supervisors.

2. A Chairperson from the hosting entity will be designated for each meeting.

3. In the event that an action item is on the meeting agenda, Los Angeles and Inyo County shall each designate one member to cast the single vote allotted to their entity at the onset of the meeting. The Chairperson may be so designated. Agenda items that the Standing Committee intends to take action on will be so designated on the meeting agenda.

4. If representation at a Standing Committee meeting is not sufficient for the Standing Committee to act, the Standing Committee members present may agree to convene the meeting for the purpose of hearing informational items.

5. Meeting agendas shall include any item within the jurisdiction of the Standing Committee that has been proposed by either party.

6. The public shall be given the opportunity to comment on any agenda item prior to an action being taken. The public will be given the opportunity to comment on any non-agendized issue within the jurisdiction of the Standing Committee prior to the conclusion of each scheduled meeting. At the discretion of the Chairperson, reports from staff or reopening of public comment may be permitted during deliberations.

7. The Chairperson may limit each public comment to a reasonable time period. The hosting entity will be responsible for monitoring time during public comment.

8. Any actions taken by the Standing Committee shall be described in an action item summary memorandum that is then transmitted to the Standing Committee at its next meeting for review and approval. This summary memorandum shall also indicate the Standing Committee members present at the meeting where actions were taken.

9. Standing Committee meetings shall be voice recorded by the host entity and a copy of the recording shall be provided to the guest entity.

10. (Added February 24, 2012) The Standing Committee may also receive comments/questions in written form from members of the public. Either party may choose to respond, however, when responding to a public comment/question, whether verbally or in writing, any statements made by either party may represent the perspective of that party or the individual making the response, but not the Standing Committee as a whole (unless specifically agreed to as such by the Standing Committee). When either party responds in writing to public comment/question, that response will be concurrently provided to the other party.

For Clerk's Use Only:
AGENDA NUMBER

10

AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

☐ Consent ☐ Departmental ☐ Correspondence Action ☐ Public Hearing

☐ Scheduled Time for ☐ Closed Session ☐ Informational

FROM: Kevin D. Carunchio, County Administrator

FOR THE BOARD MEETING OF April 15, 2014

SUBJECT: Continuation of declaration of local emergency

DEPARTMENTAL RECOMMENDATION: - Request Board continue the local emergency, The Death Valley Roadeater Emergency, that resulted in flooding in the eastern portion of Inyo County during the month of August 2012, per Resolution #2012-32.

SUMMARY DISCUSSION: - During your August 28, 2012 Board of Supervisors meeting your Board took action to declare a local emergency, which has been named The Death Valley Roadeater Emergency, which was a result of flooding in the southeastern portion of Inyo County during the month of August. Since the circumstances and conditions relating to this emergency persist, your Board directed that the continuation of the declaration be considered on a by-weekly basis. The recommendation is that the emergency be continued until the further evaluation of the damage is completed and staff makes the recommendation to end the emergency.

ALTERNATIVES: N/A

OTHER AGENCY INVOLVEMENT: N/ A

FINANCING: N/A

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS *(Must be reviewed and approved by county counsel prior to submission to the board clerk.)* Approved: _____ Date_____
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (*Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)* Approved:_____ Date_____
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) Approved:_____ Date_____

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received)_____ Date:_____
(The Original plus 20 copies of this document are required)

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER

11

☐ Consent ☐ Departmental ☐ Correspondence Action ☐ Public Hearing

☐ Scheduled Time for ☐ Closed Session ☐ Informational

FROM: Kevin D. Carunchio, County Administrator

FOR THE BOARD MEETING OF April 15, 2014

SUBJECT: Continuation of declaration of local emergency

DEPARTMENTAL RECOMMENDATION: - Request Board continue the local emergency, The Gully Washer Emergency, that resulted in flooding in the central, south and southeastern portion of Inyo County during the month of July, 2013.

SUMMARY DISCUSSION: - During your August 6, 2013 Board of Supervisors meeting your Board took action to declare a local emergency, which has been named The Gully Washer Emergency, which was a result of flooding in the central, southern and southeastern portion of Inyo County during the month of July. Since the circumstances and conditions relating to this emergency persist, your Board directed that the continuation of the declaration be considered on a by-weekly basis. The recommendation is that the emergency be continued until the further evaluation of the damage is completed and staff makes the recommendation to end the emergency.

ALTERNATIVES: N/A

OTHER AGENCY INVOLVEMENT: N/ A

FINANCING: N/A

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS *(Must be reviewed and approved by county counsel prior to submission to the board clerk.)* Approved: _____ Date_____
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (*Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)* Approved:_____ Date_____
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) Approved:_____ Date_____

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received)_____ Date:_____
(The Original plus 20 copies of this document are required)

For Clerk's Use Only:
AGENDA NUMBER

12

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

☐ Consent ☐ Departmental ☐ Correspondence Action ☐ Public Hearing

☐ Scheduled Time for ☐ Closed Session ☐ Informational

FROM: Kevin D. Carunchio, County Administrator

FOR THE BOARD MEETING OF April 15, 2014

SUBJECT: Continuation of declaration of local emergency

DEPARTMENTAL RECOMMENDATION: - Request Board continue the local emergency, The Canyon Crusher Emergency, that resulted in flooding in the portions of Inyo County during the month of August, 2013.

SUMMARY DISCUSSION: - During your September 17, 2013 Board of Supervisors meeting your Board took action to declare a local emergency, which has been named The Canyon Crusher Emergency, which was a result of flooding in the portions of Inyo County during the month of August. Since the circumstances and conditions relating to this emergency persist, your Board directed that the continuation of the declaration be considered on a by-weekly basis. The recommendation is that the emergency be continued until the further evaluation of the damage is completed and staff makes the recommendation to end the emergency.

ALTERNATIVES: N/A

OTHER AGENCY INVOLVEMENT: N/ A

FINANCING: N/A

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS *(Must be reviewed and approved by county counsel prior to submission to the board clerk.)* Approved: _____ Date_____
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (*Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)* Approved:_____ Date_____
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) Approved:_____ Date_____

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received)_____ Date:_____
(The Original plus 20 copies of this document are required)

For Clerk's Use Only:
AGENDA NUMBER
13

AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

☐ Consent ☐ Departmental ☐ Correspondence Action ☐ Public Hearing

☐ Scheduled Time for ☐ Closed Session ☐ Informational

FROM: Kevin D. Carunchio, County Administrator

FOR THE BOARD MEETING OF April 15, 2014

SUBJECT: Continuation of proclamation of local emergency

DEPARTMENTAL RECOMMENDATION: - Request Board continue the local emergency, known as the "Land of EVEN Less Water Emergency" that was proclaimed as a result of extreme drought conditions that exist in the County.

SUMMARY DISCUSSION: - During your January 28, 2014 Board of Supervisors meeting your Board took action to proclaim a local emergency, which has been named the Land of EVEN Less Water Emergency, that is a result of severe and extreme draught conditions that exist in the County. Since the circumstances and conditions relating to this emergency persist, your Board directed that the continuation of the resolution be considered on a by-weekly basis.

ALTERNATIVES: N/A

OTHER AGENCY INVOLVEMENT: N/ A

FINANCING: N/A

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS *(Must be reviewed and approved by county counsel prior to submission to the board clerk.)* Approved: _____ Date_____
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (*Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)* Approved:_____ Date_____
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) Approved:_____ Date_____

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received)_____ Date:_____
(The Original plus 20 copies of this document are required)

For Clerk's Use Only:
AGENDA NUMBER

14

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

☒ Consent ☐ Departmental ☐ Correspondence Action ☐ Public Hearing

☐ Scheduled Time for ☐ Closed Session ☐ Informational

FROM: County Administrator-Risk Management

FOR THE BOARD MEETING OF: April 15, 2014

SUBJECT: Amendment #1 to the Public Defender contracts between the County of Inyo and Sophie C. Bidet, Kristine Eisler and Josh Hillemeier

DEPARTMENTAL RECOMMENDATION

Request Board approve Amendment #1 to the Contracts between the County of Inyo and

1) Sophie C. Bidet
2) Kristine Eisler
3) Josh Hillemeier

amending their respective Public Defender contracts by deleting the provisions stated in Paragraph 10. Workers' Compensation and Paragraph 11 . Insurance and adding "Exhibit E. Insurance Requirements for Professional Services" to the contract, pending appropriate signatures being obtained, and authorize the Chairperson to sign.

SUMMARY DISCUSSION

The Excess Insurance Authority's broker Alliant Insurance Services has recently recommended changes to Insurance Requirements in Contracts to better protect the Counties and other member public agencies. Risk Management is currently in the process of amending the County's insurance provisions in contracts available for use by Departments on the County intranet for 2014-15 forward. These changes are necessary to ensure the County is appropriately transferring risk in Contracts.

ALTERNATIVES

Your Board could choose not to approve these amendments. However, the County is obligated to provide legal services to the indigent and not approving these amendments to the contracts could require the County to obtain out of contract attorneys appointed by the Court and would be entitled to charge the County at a rate set without input or control by the County.

OTHER AGENCY INVOLVEMENT

None

FINANCING

Funding for these contracts exists in the Fiscal Year 2013-2014 Public Defender Budget #022600.

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS *(Must be reviewed and approved by county counsel prior to submission to the board clerk.)* Margaret Kemp-Williams Approved: Yes Date 04/10/14
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (*Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)* Approved:_____Date_____
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) Approved:_____Date_____

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received)_____Date: 4/10/14

AMENDMENT NUMBER __1__ TO
AGREEMENT BETWEEN THE COUNTY OF INYO AND
__KRISTINE EISLER__
FOR THE PROVISION OF PROFESSIONAL SERVICES AS A PUBLIC DEFENDER

WHEREAS, the County of Inyo (hereinafter referred to as "County") and__Kristine Eisler__, of Bishop, California (hereinafter referred to as "Contractor"), have entered into an Agreement for the Provision of Professional Services as a Public Defender dated __April 1, 2014__, on County of Inyo Standard Contract No. _160_, for the term from __April 1, 2014__ to _June 30, 2017_.

WHEREAS, County and Contractor do desire and consent to amend such Agreement as set forth below.

DELETE:

Paragraph 10. **WORKERS' COMPENSATION** – Delete in entirety

Paragraph 11. **INSURANCE** – Delete in entirety

ADDITION:

Add Attachment E-**INSURANCE**

ATTACHMENT E

AGREEMENT BETWEEN COUNTY OF INYO
AND KRISTINE EISLER
FOR THE PROVISION OF PROFESSIONAL SERVICES AS A PUBLIC DEFENDER

TERM:

FROM: APRIL 1, 2014 TO: JUNE 30, 2017

INSURANCE PROVISIONS: For the duration of this Agreement, Contractor shall procure and maintain insurance of the scope and amount specified in the attached "Exhibit E" and with the provisions specified in that attachment.

EXHIBIT E.

Insurance Requirements for Professional Services

Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability** (CGL): Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis for bodily injury and property damage, including products-completed operations, personal injury and advertising injury, with limits no less than **$1,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability:** Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if Consultant has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than **$500,000** per accident for bodily injury and property damage.
3. **Workers' Compensation** insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than **$1,000,000** per accident for bodily injury or disease.

(Not required if consultant provides written verification it has no employees)

1. **Professional Liability** (Errors and Omissions) Insurance appropriates to the Consultant's profession, with limit no less than **$1,000,000** per occurrence.

If the Consultant maintains higher limits than the minimums shown above, the Entity requires and shall be entitled to coverage for the higher limits maintained by the Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Entity.

Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

Additional Insured Status

1. **The Entity, its officers, officials, employees, and volunteers are to be covered as additional insureds** on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the consultant including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Consultant's insurance (at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10 and CG 20 37 forms if later revisions used).

EXHIBIT E.

Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

Primary Coverage

For any claims related to this contract, the **Consultant's insurance coverage shall be primary** insurance as respects the Entity, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the Entity, its officers, officials, employees, or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

Notice of Cancellation

Each insurance policy required above shall state that **coverage shall not be canceled, except with notice to the Entity**.

Waiver of Subrogation

Consultant hereby grants to Entity a waiver of any right to subrogation which any insurer of said Consultant may acquire against the Entity by virtue of the payment of any loss under such insurance. Consultant agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the Entity has received a waiver of subrogation endorsement from the insurer.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the Entity. The Entity may require the Consultant to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the Entity.

Claims Made Policies

If any of the required policies provide coverage on a claims-made basis:

1. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided ***for at least five (5) years after completion of the contract of work.***
3. If coverage is canceled or non-renewed, and not ***replaced with another claims-made policy form with a Retroactive Dat***e prior to the contract effective date, the Consultant must purchase "extended reporting" coverage for a minimum of ***five (5)*** years after completion of contract work.

Verification of Coverage

Consultant shall furnish the Entity with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the Entity before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant's obligation to provide them. The Entity reserves the right to require complete,

certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Subcontractors

Consultant shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein.

Special Risks or Circumstances

Entity reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

AMENDMENT NUMBER __1__ TO
AGREEMENT BETWEEN THE COUNTY OF INYO AND
__KRISTINE EISLER__
FOR THE PROVISION OF PROFESSIONAL SERVICES AS A PUBLIC DEFENDER

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS

____ DAY OF _____, _____.

COUNTY OF INYO

By: _____

Dated: _____

CONTRACTOR

By: _____
Signature

_____
Type or Print

Dated: _____

APPROVED AS TO FORM AND LEGALITY

_____
County Counsel

APPROVED AS TO ACCOUNTING FORM:

_____
County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

_____
Director of Personnel Services

APPROVED AS TO RISK ASSESSMENT:

_____
County Risk Manager

AMENDMENT NUMBER __1__ TO
AGREEMENT BETWEEN THE COUNTY OF INYO AND
__SOPHIE C. BIDET__
FOR THE PROVISION OF PROFESSIONAL SERVICES AS A PUBLIC DEFENDER

WHEREAS, the County of Inyo (hereinafter referred to as "County") and __Sophie C. Bidet__, of __Bishop, California__ (hereinafter referred to as "Contractor"), have entered into an Agreement for the Provision of Professional Services as a Public Defender dated __April 1, 2014__, on County of Inyo Standard Contract No. __160__, for the term from __April 1, 2014__ to __June 30, 2017__.

WHEREAS, County and Contractor do desire and consent to amend such Agreement as set forth below.

DELETE:

Paragraph 10. **WORKERS' COMPENSATION** – Delete in entirety

Paragraph 11. **INSURANCE** – Delete in entirety

ADDITION:

Add Attachment E-**INSURANCE**

ATTACHMENT E

AGREEMENT BETWEEN COUNTY OF INYO
AND SOPHIE C. BIDET
FOR THE PROVISION OF PROFESSIONAL SERVICES AS A PUBLIC DEFENDER

TERM:

FROM: APRIL 1, 2014 TO: JUNE 30, 2017

INSURANCE PROVISIONS: For the duration of this Agreement, Contractor shall procure and maintain insurance of the scope and amount specified in the attached "Exhibit E" and with the provisions specified in that attachment.

EXHIBIT E.

Insurance Requirements for Professional Services

Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability** (CGL): Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis for bodily injury and property damage, including products-completed operations, personal injury and advertising injury, with limits no less than **$1,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability:** Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if Consultant has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than **$500,000** per accident for bodily injury and property damage.
3. **Workers' Compensation** insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than **$1,000,000** per accident for bodily injury or disease.

(Not required if consultant provides written verification it has no employees)

1. **Professional Liability** (Errors and Omissions) Insurance appropriates to the Consultant's profession, with limit no less than **$1,000,000** per occurrence.

If the Consultant maintains higher limits than the minimums shown above, the Entity requires and shall be entitled to coverage for the higher limits maintained by the Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Entity.

Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

Additional Insured Status

1. **The Entity, its officers, officials, employees, and volunteers are to be covered as additional insureds** on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the consultant including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Consultant's insurance (at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10 and CG 20 37 forms if later revisions used).

EXHIBIT E.

Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

Primary Coverage

For any claims related to this contract, the **Consultant's insurance coverage shall be primary** insurance as respects the Entity, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the Entity, its officers, officials, employees, or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

Notice of Cancellation

Each insurance policy required above shall state that **coverage shall not be canceled, except with notice to the Entity**.

Waiver of Subrogation

Consultant hereby grants to Entity a waiver of any right to subrogation which any insurer of said Consultant may acquire against the Entity by virtue of the payment of any loss under such insurance. Consultant agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the Entity has received a waiver of subrogation endorsement from the insurer.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the Entity. The Entity may require the Consultant to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the Entity.

Claims Made Policies

If any of the required policies provide coverage on a claims-made basis:

1. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided ***for at least five (5) years after completion of the contract of work.***
3. If coverage is canceled or non-renewed, and not ***replaced with another claims-made policy form with a Retroactive Dat***e prior to the contract effective date, the Consultant must purchase "extended reporting" coverage for a minimum of ***five (5)*** years after completion of contract work.

Verification of Coverage

Consultant shall furnish the Entity with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the Entity before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant's obligation to provide them. The Entity reserves the right to require complete,

certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Subcontractors

Consultant shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein.

Special Risks or Circumstances

Entity reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

AMENDMENT NUMBER __1__ TO
AGREEMENT BETWEEN THE COUNTY OF INYO AND
__SOPHIE C. BIDET__
FOR THE PROVISION OF PROFESSIONAL SERVICES AS A PUBLIC DEFENDER

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS

____ DAY OF _____, _____.

COUNTY OF INYO

By: _____

Dated: _____

CONTRACTOR

By: _____
Signature

_____
Type or Print

Dated: _____

APPROVED AS TO FORM AND LEGALITY

_____
County Counsel

APPROVED AS TO ACCOUNTING FORM:

_____
County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

_____
Director of Personnel Services

APPROVED AS TO RISK ASSESSMENT:

_____
County Risk Manager

AMENDMENT NUMBER __1__ TO
AGREEMENT BETWEEN THE COUNTY OF INYO AND
__JOSH HILLEMEIER__
FOR THE PROVISION OF PROFESSIONAL SERVICES AS A PUBLIC DEFENDER

WHEREAS, the County of Inyo (hereinafter referred to as "County") and__Josh Hillemeier__, of Bishop, California (hereinafter referred to as "Contractor"), have entered into an Agreement for the Provision of Professional Services as a Public Defender dated __April 1, 2014__, on County of Inyo Standard Contract No. __160__, for the term from __May 1, 2014__ to __June 30, 2017__.

WHEREAS, County and Contractor do desire and consent to amend such Agreement as set forth below.

DELETE:

Paragraph 10. **WORKERS' COMPENSATION** – Delete in entirety

Paragraph 11. **INSURANCE** – Delete in entirety

ADDITION:

Add Attachment E-**INSURANCE**

ATTACHMENT E

AGREEMENT BETWEEN COUNTY OF INYO
AND JOSH HILLEMEIER
FOR THE PROVISION OF PROFESSIONAL SERVICES AS A PUBLIC DEFENDER

TERM:

FROM: MAY 1, 2014 TO: JUNE 30, 2017

INSURANCE PROVISIONS: For the duration of this Agreement, Contractor shall procure and maintain insurance of the scope and amount specified in the attached "Exhibit E" and with the provisions specified in that attachment.

EXHIBIT E.

Insurance Requirements for Professional Services

Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability** (CGL): Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis for bodily injury and property damage, including products-completed operations, personal injury and advertising injury, with limits no less than **$1,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability:** Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if Consultant has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than **$500,000** per accident for bodily injury and property damage.
3. **Workers' Compensation** insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than **$1,000,000** per accident for bodily injury or disease.

(Not required if consultant provides written verification it has no employees)

1. **Professional Liability** (Errors and Omissions) Insurance appropriates to the Consultant's profession, with limit no less than **$1,000,000** per occurrence.

If the Consultant maintains higher limits than the minimums shown above, the Entity requires and shall be entitled to coverage for the higher limits maintained by the Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Entity.

Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

Additional Insured Status

1. **The Entity, its officers, officials, employees, and volunteers are to be covered as additional insureds** on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the consultant including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Consultant's insurance (at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10 and CG 20 37 forms if later revisions used).

EXHIBIT E.

Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

Primary Coverage
For any claims related to this contract, the **Consultant's insurance coverage shall be primary** insurance as respects the Entity, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the Entity, its officers, officials, employees, or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

Notice of Cancellation
Each insurance policy required above shall state that **coverage shall not be canceled, except with notice to the Entity.**

Waiver of Subrogation
Consultant hereby grants to Entity a waiver of any right to subrogation which any insurer of said Consultant may acquire against the Entity by virtue of the payment of any loss under such insurance. Consultant agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the Entity has received a waiver of subrogation endorsement from the insurer.

Deductibles and Self-Insured Retentions
Any deductibles or self-insured retentions must be declared to and approved by the Entity. The Entity may require the Consultant to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

Acceptability of Insurers
Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the Entity.

Claims Made Policies
If any of the required policies provide coverage on a claims-made basis:

1. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided ***for at least five (5) years after completion of the contract of work.***
3. If coverage is canceled or non-renewed, and not ***replaced with another claims-made policy form with a Retroactive Dat***e prior to the contract effective date, the Consultant must purchase "extended reporting" coverage for a minimum of ***five (5)*** years after completion of contract work.

Verification of Coverage
Consultant shall furnish the Entity with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the Entity before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant's obligation to provide them. The Entity reserves the right to require complete,

certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Subcontractors

Consultant shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein.

Special Risks or Circumstances

Entity reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

AMENDMENT NUMBER __1__ TO
AGREEMENT BETWEEN THE COUNTY OF INYO AND
__JOSH HILLEMEIER__
FOR THE PROVISION OF PROFESSIONAL SERVICES AS A PUBLIC DEFENDER

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS

____ DAY OF _____, _____.

COUNTY OF INYO

By: _____

Dated: _____

CONTRACTOR

By: _____
Signature

Josh D. Hillemeier
Type or Print

Dated: 4/10/14

APPROVED AS TO FORM AND LEGALITY

_____
County Counsel

APPROVED AS TO ACCOUNTING FORM:

_____
County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

_____
Director of Personnel Services

APPROVED AS TO RISK ASSESSMENT:

_____
County Risk Manager

For Clerk's Use Only:
AGENDA NUMBER
15

AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

☒ Consent ☐ Departmental ☐ Correspondence Action ☐ Public Hearing
☐ Scheduled Time: ☐ Closed Session ☐ Informational

FROM: Planning Department

FOR THE BOARD MEETING OF: April 15, 2014

SUBJECT: Amendment No. One to contract between the County of Inyo and CAJA Environmental Services, LLC for the provision of environmental services for the Environmental Impact Report for the Northland Power Independence, LLC Solar project.

DEPARTMENTAL RECOMMENDATION: Request that the Board approve Amendment No. One to the contract between the County of Inyo and CAJA Environmental Services, LLC to specify per diem and travel costs reimbursements.

SUMMARY DISCUSSION: On November 5, 2013, the Board entered into a contract with CAJA Environmental Services, LLC to produce an Environmental Impact Report (EIR) for the Northland Power Independence, LLC Solar project. Attachment C (Schedule of Travel and Per Diem Payment) inadvertently was not completed. The proposed contract amendment corrects this oversight.

ALTERNATIVES: The Board could choose not to approve the proposed amendment. This is not recommended, as the services of the consultant are required, and travel and per diem costs will be incurred through the course of the work that should be reimbursed.

OTHER AGENCY INVOLVEMENT: None directly.

FINANCING: Reimbursement for the costs of the Northland Power Independence, LLC Solar project EIR will continue to be provided by deposits from Northland Power, which are held in trust (Northland Power Independence, LLC Solar, 503802).

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS *(Must be reviewed and approved by county counsel prior to submission to the board clerk.)* Margaret Kemp-Williams Approved: Yes Date 03/31/2014
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (*Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)* Approved: yes Date 4/2/2014
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) Approved:_____ Date_____

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) Date: 4-7-14

Attachment: Proposed Contract Amendment with CAJA Environmental Services, LLC

AMENDMENT NUMBER ONE TO THE AGREEMENT BETWEEN THE COUNTY OF INYO AND CAJA ENVIRONMENTAL SERVICES, LLC FOR THE PROVISION OF ENVIRONMENTAL SERVICES

WHEREAS, the County of Inyo (hereinafter referred to as "County") and CAJA Environmental Services, LLC (CAJA) (hereinafter referred to as "Consultant") have entered into an Agreement for the provision of environmental services dated November 5, 2013, on County of Inyo Standard Contract No. 156 for the term from November 6, 2013 to April 30, 2015.

WHEREAS, the Agreement provides that it may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties thereto, if such amendment or change is in written form, and executed with the same formalities as such Agreement, and attached to the original Agreement to maintain continuity.

WHEREAS, County and Consultant do desire to consent to amend such Agreement as set forth below.

County and Consultant hereby amend such Agreement as follows:

Insert the following clause on Attachment C – Consultant shall receive per diem at the following rates: if staying in Inyo County, the standard rate is $46.00 per day for per diem (meals and incidentals). Hotel costs are reimbursed at actual cost, not to exceed $150.00 per night. Travel will be reimbursed at the IRS standard rate. All reimbursable expenses require dated receipt.

AMENDMENT NO. ONE TO THE AGREEMENT BETWEEN THE COUNTY OF INYO AND CAJA ENVIRONMENTAL SERVICES, LLC FOR THE PROVISION OF ENVIRONMENTAL SERVICES

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS ____ DAY OF _____, _____.

COUNTY OF INYO	**CONSULTANT**
By: _____	By: _____
Dated: _____	Dated: March 31, 204

APPROVED AS TO FORM AND LEGALITY:

Margaret Kemp-Williams
County Counsel

APPROVED AS TO ACCOUNTING FORM:

_____
County Auditor

APPROVES AS TO PERSONNEL REQUIREMENTS:

_____
Director of Personnel Services

APPROVED AS TO RISK ASSESSMENT:

_____
County Risk Manager

For Clerk's Use Only:
AGENDA NUMBER
16

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

☒ Consent ☐ Departmental ☐ Correspondence Action ☐ Public Hearing

☐ Scheduled Time for ☐ Closed Session ☐ Informational

FROM: Public Works Department

FOR THE BOARD MEETING OF: April 15, 2014

SUBJECT: Amendment No. 2 to the Agreement between Inyo County and ISL Engineering for Public Works Department Standard Drawings and Specifications

DEPARTMENTAL RECOMMENDATION:

Request that your Board approve Amendment No. 2 to the Agreement between the County of Inyo and ISL Engineering, Inc., extending the current Agreement deadline from May 5, 2014 to December 31, 2014.

CAO RECOMMENDATION:

SUMMARY DISCUSSION:

On August 6, 2013, your Board approved an Agreement with ISL Engineering, Inc., in a not-to-exceed amount of $41,480 for updating both the Inyo County Standard Specifications (for public works projects) and the Standard Drawings/Plans (for work occurring within the County right-of-way). The term of this Agreement was from August 6, 2013 to December 31, 2013. This agreement was subsequently amended by your Board on December 17, 2013 approving Amendment No. 1 which extended the end date of the agreement from December 31, 2013 until May 5, 2014. Public Works is now requesting to again extend the ending date of this Agreement until December 31, 2014. Additional contract time is needed to allow for Public Works and the Consultant to complete the review and update of the current County Standard Specifications and Standard Drawings/Plans. This update will also bring these documents into compliance with current standards, including the Americans with Disabilities Act.

ALTERNATIVES:

To not approve this Contract extension request. This is not recommended as the Amendment No. 2 time extension request, if approved, will result in a superior and more comprehensive County Standard Specification document and Inyo County Standard Drawings/Plans.

OTHER AGENCY INVOLVEMENT:

County Council and the Auditor's Office has reviewed and approved the proposed contract.

FINANCING:

No fiscal impacts.

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS *(Must be reviewed and approved by county counsel prior to submission to the board clerk.)* Approved: yes Date 4.8.14
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (*Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)* Approved: yes Date 4/9/2014
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) Approved:_____ Date_____

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) Date: 4/9/14

AMENDMENT No. 2
to the
AGREEMENT BETWEEN THE COUNTY OF INYO AND
ISL Engineering, Inc.
FOR THE PROVISION OF PROFESSIONAL DESIGN SERVICES

WHEREAS, the County of Inyo (hereinafter referred to as "County") and ISL Engineering, Inc. of Valley Springs, California (hereinafter referred to as "Consultant"), have entered into an Agreement for the provision of Professional Design Services dated August 6, 2013, on County of Inyo Standard Contract No. 156, for the term from August 6, 2013 to December 31, 2013.

WHEREAS, County and Consultant, did previously approve Amendment No. 1 to such agreement on December 17, 2013, which extended the end date of such agreement to May 5, 2014.

WHEREAS, County and Consultant do desire and consent to amend such Agreement as set forth below:

WHEREAS, such Agreement provides that it may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties thereto, if such amendment or change is in written form, and executed with the same formalities as such Agreement, and attached to the original Agreement to maintain continuity.

County and Consultant hereby amend such Agreement as follows:

1. **Revise TERMS AND CONDITIONS - Item No. 2 "TERM" as follows:**

   "The term of this Agreement shall be from August 6, 2013 to December 31, 2014 unless sooner terminated as provided below."

The effective date of this Amendment No. 2 to the Agreement is _____.

All other terms and conditions of the Agreement are unchanged and shall remain the same.

AMENDMENT No. 2
to the
AGREEMENT BETWEEN THE COUNTY OF INYO AND
ISL Engineering, Inc.
FOR THE PROVISION OF PROFESSIONAL DESIGN SERVICES

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS _____ DAY OF _____, 2014.

COUNTY OF INYO

By: _____

Dated: _____

APPROVED AS TO FORM AND LEGALITY:

_____
County Counsel

APPROVED AS TO ACCOUNTING FORM:

_____
County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

_____
Director of Personnel Services

APPROVED AS TO RISK ASSESSMENT:

_____
County Risk Manager

CONSULTANT

By: _____

Dated: April 7, 2014

Taxpayer's Identification Number:

46-0996148

For Clerk's Use Only:
AGENDA NUMBER

17

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

☒ Consent ☐ Departmental ☐ Correspondence Action ☐ Public Hearing

☐ Scheduled Time for ☐ Closed Session ☐ Informational

FROM: Public Works

FOR THE BOARD MEETING OF: April 15, 2014

SUBJECT: Statham Hall Heater Replacement Project – Heater Equipment Purchase

DEPARTMENTAL RECOMMENDATION:

1. Recommend the Board accept the low bid received and approve the purchase of project heater equipment at Statham Hall Building, Lone Pine.

CAO RECOMMENDATION:

SUMMARY DISCUSSION:

On April 2, 2014 the Assistant Board Clerk opened bids for the Statham Hall Heater Project. There were a total of three (3) bids received for this project heater equipment. The bids were from the following companies in the amounts indicated:

1.	Technology International, Inc., Lake Mary, Florida	$39,110.10
2.	Western Nevada Supply, Inc., Sparks, Nevada	$48,560.04
3.	Econo-West, Inc., Lancaster , CA	$48,894.54

These bids were for the purchase and delivery of five (5) roof mounted heaters and one heater/make-up air unit, all located on the roof of the Statham Hall building. The bid tabulation is included in your Board package for reference.

The low bid received was from Technology International, Inc. This bid was reviewed and found responsive to the bid documents. Public Works is therefore recommending your Board accept the low bid received and authorize the Purchasing Agent to prepare a Purchase Order in the amount of $39,110.10 for obtaining this heater equipment.

ALTERNATIVES:

To not accept the low bid received and not authorize the Purchasing Agent to prepare a purchase order. This is not recommended as this bid was very competitive and there are sufficient funds available in the Deferred Maintenance Budget for the project.

OTHER AGENCY INVOLVEMENT:

Public Works Department for specifications for this bid.
County Purchasing Agent for advertising and bidding.
County Auditor for the payment of all invoices.

FINANCING:

The funds for this project will be provided through the Deferred Maintenance Budget 011501, object code 5640 "Structures and Improvements."

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS *(Must be reviewed and approved by county counsel prior to submission to the board clerk.)* Approved: yes Date 4/9/2014
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (*Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)* Approved: yes Date 4/9/14
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) Approved:_____ Date_____

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received)_____ Date: 4/9/14

COUNTY OF INYO BID TABULATION

Project Title & Bid No. Heating & Ventilation Unit

Bid Opening Date: 4-2-14 *Location:* County Admin Center

	BIDDER NAME	Bid Amount A	Bid Amount B	Bid Amount C	Bond
1.	Western Nevada Supply	$48,560.04			
2.	Technology International Inc	$39,110.10			
3.	Econo-West	$48894.54			
4.					
5.					
6.					
7.					
8.					
9.					
10.					

Opened By: Patricia Gunsalley

Present: Jeff Ahlstrom

For Clerk's Use Only:
AGENDA NUMBER

18

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

☐ Consent ☐ Departmental ☐ Correspondence Action ☐ Public Hearing

☐ Scheduled Time for ☐ Closed Session ☐ Informational

FROM: Public Works

FOR THE BOARD MEETING OF: April 15, 2014

SUBJECT: Inyo County Labor Compliance Program

DEPARTMENTAL RECOMMENDATION:

1. Rescind the previously approved Resolution No. 2013-46 which approved and adopted the Inyo County Labor Compliance Program;
2. Recommend the Board approve the attached revised Labor Compliance Program for Inyo County (LCPIC); and,
2. Approve the attached Resolution to adopt the revised LCPIC.

CAO RECOMMENDATION:

SUMMARY DISCUSSION:

On September 17, 2013, your Board passed and adopted Resolution #2013-46, approving the Inyo County Labor Compliance Program (ICLCP). This ICLCP and Resolution were subsequently submitted to the State of California, Department of Industrial Relations (DIR) along with an application requesting review and approval of the ICLCP. After reviewing this original application and ICLCP, the DIR issued a letter denying the application for approval of the ICLCP.

Currently, Inyo County Public Works has two (2) projects that are funded from a CA Department of Water Resources (DWR) Proposition 84 Grant program. This Grant program requires the construction contract Awarding Agency (i.e. Inyo County) have a State Department of Industrial Relations (DIR) "approved" Labor Compliance Program prior to advertising these projects to receive bids. These projects must be constructed and closed out prior to December 31, 2014. Public Works has recently entered into an agreement with CS & Associates, Inc., to provide Inyo County with an approved Labor Compliance Program for use on the CSA 2 Sewer Rehabilitation Proposition 84 funded project. CS & Associates, Inc. will also provide additional assistance ensuring project compliance with current state labor laws.

The attached revised Labor Compliance Program for Inyo County, presented for your review and approval, will comply with this Prop 84 Grant program mandate. If approved by your Board, this LCPIC and the adopting Resolution will be re-submitted to the State DIR Director for their review and approval.

ALTERNATIVES:

Not approve the Labor Compliance Program for Inyo County and adopting Resolution. This is not recommended because Inyo County needs to have a DIR approved Labor Compliance Program for its two (2) current Prop 84 Grant funded projects.

OTHER AGENCY INVOLVEMENT:

1) Public Works Department for Prop 84 project oversight with respect to Labor Compliance; 2) County Counsel for review and approval of the ARF; and, 3) State Department of Industrial Relations for review and approval of the LCPIC.

FINANCING:

The agreement with CS & Associates will be funded from the FY 2013-14 CSA#2 Budget Unit 810001, Object Code 5265. This requested Board action will have no financial impact.

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS *(Must be reviewed and approved by county counsel prior to submission to the board clerk.)* Margaret Kemp-Williams Approved: Yes Date 04/02/14
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (*Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)* Approved: Yes Date 4/7/2014
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) Approved:_____ Date_____

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received)_____ Date:_____

RESOLUTION # 2014 ____

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF INYO, STATE OF CALIFORNIA AUTHORIZING THE ADOPTION OF A LABOR COMPLIANCE PROGRAM FOR PROPOSITION 84 PROJECTS

WHEREAS, Inyo County is establishing a Labor Compliance Program in accordance with the requirements of Labor Code Section 1771.5(b) and California Code of Regulations Title 8, Chapter 8 Subchapter 4 §16423 pursuant to Public Resources Code §75075 as a condition for obtaining grant funding.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors for the County of Inyo hereby approve and adopt the INYO COUNTY LABOR COMPLIANCE PROGRAM, dated April, 2014.

Passed, approved and adopted this _____ day of_____, 2014 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
Chairperson, Board of Supervisors

ATTEST:

Kevin Carunchio, Clerk

By: _____
Assistant Clerk to the Board

RECORDING REQUESTED BY AND TO BE RETURNED TO:

County of Inyo
c/o Director of Public Works
Public Works Department
168 No. Edwards Street
P.O. Drawer Q
Independence, CA 93526

Labor Compliance Program
For
County of Inyo Department of Public Works

Dated: March 4, 2014

Prepared & Submitted by

County of Inyo
Department of Public
Works

COUNTY OF INYO DEPARTMENT OF PUBLIC WORKS

LABOR COMPLIANCE PROGRAM
IMPLEMENTATION PLAN & OPERATIONAL MANUAL
IMPLEMENTED BY COUNTY OF INYO DEPARTMENT OF PUBLIC WORKS

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INTRODUCTION

The County of Inyo, Department of Public Works institutes this Labor Compliance Program ("LCP") for the purpose of implementing its policy relative to the labor compliance provisions of State and Federally funded public works contracts and specifically to comply with the provisions of Public Resources Code Section 75075 pertaining to the use of funds derived from Water Bond Act of 2004 and also for those projects requiring a labor compliance program.

California Labor Code Section 1770, et seq., and Education Code Section 17424 require that contractors on public works projects pay their workers based on the prevailing wage rates which are established and issued by the Department of Industrial Relations, Division of Labor Statistics and Research.

California Labor Code Section 1776 requires contractors to keep accurate payroll records of trades workers on all public works projects and to submit copies of certified payroll records upon request.

California Labor Code Section 1777.5 requires contractors to employ registered apprentices on public works projects.

California Code of Regulations Section 16422 specifies the applicable dates for the enforcement of Labor Compliance Programs on projects subject to Labor Code Section 1771.5 and further defines contracts subject to Labor Compliance Program jurisdiction as well as conditions under which limited exemptions, approval, revocation, voluntary termination for labor Compliance Programs shall transpire.

In establishing this LCP, County of Inyo Department of Public Works adheres to the statutory requirements as enunciated in Section 1771.5(b) of the Labor Code. Further, it is the intent of County of Inyo Department of Public Works to actively enforce this LCP by monitoring active construction sites for the payment of prevailing wage rates, and by requiring contractors and subcontractors having workers on public works sites to submit copies of certified payroll records demonstrating their compliance with the payment of prevailing wage rates.

Should applicable sections of the Labor Code or Title 8 of the California Code of Regulations undergo alteration, amendment, or deletion, County of Inyo Department of Public Works will modify the affected portions of this program accordingly.

This labor compliance program ("LCP") contains the labor compliance standards required by State and Federal laws, regulations, and directives, as well as County policies and contract provisions, which include, but are not limited to, the following:

1. Contractors' payment of applicable general prevailing wage rates.
2. Contractors' employment of properly registered apprentices.
3. Contractors' providing certified payroll records upon request but not less than weekly.
4. Program's monitoring construction sites for the verification of proper payments of prevailing wage rates and work classification.
5. Program's conducting pre-job conferences with contractors/subcontractors.
6. Program's withholding contract payments and imposing penalties for noncompliance.
7. Program's preparation and submittal of annual reports.

Inyo County LCO, the Labor Compliance Officer ("LCO") is the representative for enforcement

of the LCP. The LCO will be responsible for the implementation and enforcement of the LCP and will utilize trained staff and staff of an approved Third Party LCP consultant to support their efforts as necessary to meet the requirements of this LCP.

§16421. Composition and Components of Labor Compliance Program.

(a) In accordance with Labor Code Section 1771.5(b), a Labor Compliance Program shall include, but not be limited to, the following requirements:

(1) The Call for Bids, Design-Build Request, and the contract or purchase order shall contain appropriate language concerning the requirements of Chapter 1 of Part 7 of Division 2 of the Labor Code.

(2) A pre-job conference shall be conducted before commencement of the work with contractors and subcontractors listed in the bid or who are required to be identified or prequalified in a Design-Build Contract. At the pre-job conference applicable federal and state labor law requirements shall be discussed, and copies of suggested reporting forms furnished. A checklist, showing which federal and state labor law requirements were discussed, shall be kept for each conference. A checklist in the format of Appendix A presumptively meets this requirement.

(3) A requirement that certified payroll records be kept by the contractor in accordance with Labor Code Section 1776 and furnished to the Labor Compliance Program at times designated in the contract, which shall be at least monthly, or within 10 days of any request by the Awarding Body. Use of the current version of DIR's "Public Works Payroll Reporting Form" (A-1-131) and Statement of Employer Payments (PW26) constitute presumptive compliance with the requirement for certified payroll records kept in accordance with Labor Code Section 1776, provided the forms are filled out accurately and completely. These suggested forms are available from the Department of Industrial Relations.

(4) A program for orderly review of payroll records and, if necessary, for audits to verify compliance with the requirements of Chapter 1 of Part 7 of Division 2 of the Labor Code.

(5) A prescribed routine for withholding penalties, forfeitures, and underpayment of wages for violations of the requirements of Chapter 1 of Part 7 of Division 2 of the Labor Code.

(6) All contracts to which prevailing wage requirements apply shall include a provision that contract payments shall not be made when payroll records are delinquent or inadequate.

(d) Nothing in this section or these regulations shall be construed as limiting the responsibility and authority of an Awarding Body to take cognizance of prevailing wage violations under Section 1726 of the Labor Code and take any appropriate action pursuant to and in accordance with that responsibility and authority.

(e) It is the responsibility of a Labor Compliance Program to enforce prevailing wage requirements, consistent with the policy of the state as expressed in Labor Code Section 90.5(a). A Labor Compliance Program shall take reasonable, vigorous, and prompt action to (1) determine whether violations exist, and (2) enforce compliance, including through imposition of appropriate penalties and formal enforcement action, when violations are found. A Labor Compliance Program shall neither avoid use of its enforcement authority based on cost considerations nor shall it use that authority in an unreasonable manner to gain leverage over a contractor or subcontractor. Unreasonable use of enforcement authority includes, but is not necessarily limited to, prolonged or

excessive withholdings of contract payments without making a determination that a violation has occurred.

SECTION I
PUBLIC WORKS SUBJECT TO PREVAILING WAGE LAWS

State prevailing wage rates apply to all public works contracts as set forth in Labor Code Sections 1720 *et seq.*, and include, but are not limited to, such types of work as construction, alteration, demolition, repair, or maintenance work. The Division of Labor Statistics and Research (DLSR) predetermines the appropriate prevailing wage rates for particular construction trades and crafts by county.

A. Types of Contracts to Which Prevailing Wage Requirements Apply
As provided in Public Resources Code Section 75075, an awarding body that chooses to use funds derived from Proposition 84 and also projects requiring a labor compliance program shall initiate and enforce a Labor Compliance Program as described in subdivision (b) of section 1771.5 of the Labor Code with respect to that public works project.

B. Applicable Dates for Enforcement of the LCP

The applicable dates for enforcement of awarding body Labor Compliance Programs is established by Section 16422 of the California Code of Regulations. Contracts are not subject to the jurisdiction of the Labor Compliance Program until after the program has received initial or final approval.

SECTION II
COMPETITIVE BIDDING ON COUNTY PUBLIC WORKS CONTRACTS

The County of Inyo publicly advertises upcoming public works projects to be awarded according to a competitive bidding process. All County bid advertisements (or bid invitations) and public works contracts shall contain appropriate language concerning the requirements of the Labor Code.

SECTION III
PRE CONSTRUCTION MEETING

After the County of Inyo awards the public works contract, and prior to the commencement of the work, a mandatory Pre Construction meeting (or Pre-Job conference) shall be conducted by the LCO with the contractor and those subcontractors listed in its bid documents.

At that meeting, the LCO will discuss the federal and state labor law requirements applicable to the contract, including prevailing wage requirements, the respective record keeping responsibilities, the requirement for the submittal of certified payroll records to the County of Inyo, and the prohibition against discrimination in employment.

The LCO will provide the contractor and each subcontractor with a Checklist of Labor Law Requirements (presented as Attachment A to this document) and will discuss in detail the following checklist items:

1. The contractor's duty to pay prevailing wages (Labor Code Section 1770 *et seq.*);

2. The contractor's duty to employ registered apprentices on public works projects (Labor Code Section 1777.5);

3. The penalties for failure to pay prevailing wages and to employ apprentices, including forfeitures and debarment (Labor Code Sections 1775, 1777.7, and 1813);

4. The requirement to maintain and submit copies of certified payroll records to the Awarding Body, on a weekly basis, as required (Labor Code Section 1776), and penalties for failure to do so (Labor Code Section 1776(g)); The requirement includes and applies to all subcontractors performing work on County projects even if their portion of the work is less than one half of one percent of the total amount of the contract.

5. The prohibition against employment discrimination (Labor Code Sections 1735 and 1777.6; the Government Code; and Title VII of the Civil Rights Act of 1964, as amended);

6. The prohibition against taking or receiving a portion of an employee's wages (Labor Code Section 1778) (kickback);

7. The prohibition against accepting fees for registering any person for public works (Labor Code Section 1779) or for filing work orders on public works (Labor Code Section 1780);

8. The requirement to list all subcontractors that are performing one-half of one percent of the total amount of the contract (Public Contract Code Section 4100 *et seq.*);

9. The requirement to be properly licensed and to require all subcontractors to be properly licensed, and the penalty for employing workers while unlicensed (Labor Code Section 1021 and under California Contractors License Law. Also, see Business and Professions Code Section 7000, et seq;

10. The prohibition against unfair competition (Business and Professions Code Sections 17200-17208);

11. The requirement that the contractors and subcontractor be properly insured for Workers' Compensation (Labor Code Section 1861);

12. The requirement that contractors and subcontractors are required to abide by the Occupational, Safety and Health laws and regulations that apply to the particular construction project.

13. The prohibition against contractors and subcontractors from hiring undocumented workers and requires contractors and subcontractors to secure proof of eligibility/citizenship from all workers.

14. The requirement that Contractors and subcontractors must provide itemized wage statements to employees under Labor Code Section 226.

The contractors and subcontractors present at the Pre Construction will be given the opportunity to ask questions of the LCO relative to the items contained in the Labor Law Requirements Checklist. The checklist will then be signed by the contractor's representative and the Awarding Body's LCO, **a representative of each subcontractor**, and the LCO.

At the Pre Construction meeting, the LCO will provide the contractor with a copy of the County of Inyo Department of Public Works LCP package which includes: a copy of the approved LCP, the checklist of Labor Law Requirements, applicable Prevailing Wage Rate Determinations, blank certified payroll record forms, fringe benefit statements, State apprenticeship requirements, and a copy of the Labor Code relating to Public Works and Public Agencies (Part 7, Chapter 1, Sections 1720-1861).

SECTION IV
REVIEW OF CERTIFIED PAYROLL RECORDS

A. Certified Payroll Records Required

The contractor and each subcontractor shall maintain payrolls and basic records (timecards, canceled checks, cash receipts, trust fund forms, accounting ledgers, tax forms, superintendent and foreman daily logs, etc.) during the course of the work and shall preserve them for a period of three (3) years thereafter for all trades workers working on County projects which are subject to the LCP. Such records shall include the name, address, and social security number of each worker, his or her classification, a general description of the work each employee performed each day, the rate of pay (including rates of contributions for, or costs assumed to provide fringe benefits), daily and weekly number of hours worked, and actual wages paid.

1. Submittal of Certified Payroll Records

   The contractor and each subcontractor shall maintain weekly certified payroll records for submittal on a weekly basis, no later than the first Friday following the pay period covered to County of Inyo Department of Public Works's LCO as required. The contractor shall be responsible for the weekly submittal of payroll records, no later than the first Friday following the pay period covered for all its subcontractors. All certified payroll records shall be accompanied by a statement of compliance signed by the contractor or each subcontractor indicating that the payroll records are correct and complete, that the wage rates contained

therein are not less than those determined by the Director of the Department of Industrial Relations, and that the classifications set forth for each employee conform with the work performed.

Time cards, front and back copies of cancelled checks, daily logs, employee sign-in sheets and/or any other record maintained for the purposes of reporting payroll may be requested by the Labor Compliance Officer at any time and shall be provided within 10 days following the receipt of the request.

2. Review Certified Payroll Records

Certified payroll records furnished by contractors and subcontractors shall be regularly and timely reviewed, but no later than 30 days after receipt, by the County of Inyo Department of Public Works to monitor payment of prevailing wages.

A. "Review" for this purpose shall be defined as inspection of the records furnished to determine if:
   (1) All appropriate data elements identified in Labor Code Section 1776(a) has been reported;
   (2) Certification forms have been completed and signed in compliance with Labor Code Section 1776(b); and
   (3) Correct prevailing wage rates have been reported as paid for each classification of labor listed thereon, with confirmation of payment in the manner and to the extent described below.

B. "Confirmation" of payroll records furnished by contractors and subcontractors shall be defined as an independent corroboration of reported prevailing wage payments. Confirmation may be accomplished through:
   (1) Worker Interviews, examination of paychecks or paycheck stubs, direct confirmation of payments from third party recipients of "Employer Payments" (as defined at section 16000 of Title 8 of the California Code of Regulations), or any other reasonable method of corroboration.
   (2) For each month in which a contractor or subcontractor reports having workers employed on the public work, confirmation of furnished payroll records shall be undertaken randomly for at least one worker for at least one weekly period within that month.
   (3) Confirmation shall also be undertaken whenever complaints from workers or other interested persons or other circumstances or information reasonably suggest to the Awarding Body that payroll records furnished by a contractor or subcontractor are inaccurate.

§16400. Request for Payroll Records.

(a) Requests may be made by any person for certified copies of payroll records. Requests shall be made to any of the following:

(1) the body awarding the contract, or

(2) any office of the Division of Labor Standards Enforcement, or the Division of Apprenticeship Standards.

(b) Requests for certified copies of payroll records pursuant to Section 1776 of the Labor Code may be made by any person. However, any such request shall be in writing and contain at least the following information:

(1) The body awarding the contract;

(2) The contract number and/or description;

(3) The particular job location if more than one;

(4) The name of the contractor;

(5) The regular business address, if known.

NOTE: Requests for records of more than one contractor of subcontractor must list the information regarding that contractor individually, even if all requests pertain to the same particular public works project. Blanket requests covering an entire public works project will not be accepted; unless contractor and subcontractor responsibilities regarding the project are not clearly defined.

(c) Acknowledgment of Request. The public entity receiving a request for payroll records shall acknowledge receipt of such, and indicate the cost of providing the payroll records based on an estimate by the contractor, subcontractor or public entity. The acknowledgment of the receipt of said request for payroll records may be accomplished by the public entity's furnishing a copy of its written correspondence requesting certified copies of the payroll records sent to the specific contractor pursuant to Section 16400(d) below, to the person who requested said records.

(d) Request to Contractor. The request for copies of payroll records by the requesting public entity shall be in any form and/or method which will assure and evidence receipt thereof. The request shall include the following:

(1) Specify the records to be provided and the form upon which the information is to be provided;

(2) Conspicuous notice of the following:

(A) that the person certifying the copies of the payroll records is, if not the contractor, considered as an agent acting on behalf of the contractor; and

(B) that failure to provide certified copies of the records to the requesting public entity within 10 working days of the receipt of the request will subject the contractor to a penalty of twenty-five ($25.00) dollars per calendar day or portion thereof for each worker until strict compliance is effectuated;

(3) Cost of preparation as provided in Section 16402; and

(4) Provide for inspection.

(e) Inspection of Payroll Records. Inspection of the original payroll records at the office of the contractor(s) pursuant to subdivision (b) of Section 1776 of the Labor Code shall be limited to the public entities upon reasonable written or oral notice.

§16401. Reporting of Payroll Requests.

(a) Reporting Format. The format for reporting of payroll records requested pursuant to Labor Code Section 1776 shall be on a form provided by the public entity. Copies of the forms may be procured at any office of the Division of Labor Standards Enforcement (DLSE) throughout the state and/or:

Division of Labor Statistics & Research P.O. Box 420603 San Francisco, CA 94101

ATTENTION: Prevailing Wage Unit

Acceptance of any other format shall be conditioned upon the requirement that the alternate format contain all of the information required pursuant to Labor Code Section 1776. If, however, the contractor does not comply with the provisions of Labor Code Section 1776, the Labor Commissioner may require the use of DIR's suggested format, "Public Works Payroll Reporting Form" (Form A-1-131).

(b) Words of Certification. The form of certification shall be as follows: I, _____ (Name-print) the undersigned, am _____ (position in business) with the authority to act for and on behalf of _____, (name of business and/or contractor) certify under penalty of perjury that the records or copies thereof submitted and consisting of _____ (description, no. of pages) are the originals or true, full and correct copies of the originals which depict the payroll record(s) of the actual disbursements by way of cash, check, or whatever form to the individual or individuals named. Date:_____ Signature:_____

A public entity may require a more strict and/or more extensive form of certification.

§16402. Cost.

The cost of preparation to each contractor, subcontractor, or public entity when the request was made shall be provided in advance by the person seeking the payroll record. Such cost shall be $1 for the first page of the payroll record and 25 cents for each page thereafter, plus $10 to the contractor or subcontractor for handling costs. Payment in the form of cash, check or certified money order shall be made prior to release of the documents to cover the actual costs of preparation.

§16403. Privacy Considerations.

(a) Records received from the employing contractor shall be kept on file in the office or entity that processed the request for at least 6 months following completion and acceptance of the project. Thereafter, they may be destroyed unless administrative, judicial or other pending litigation, including arbitration, mediation or other methods of dispute resolution, are in process. Copies on file shall not be obliterated in the manner prescribed in subdivision (b) below;

(b) copies provided to the public upon written request shall be marked, obliterated or provided in such a manner that the name, address and Social Security number, and other private information pertaining to each employee cannot be identified. All other information including identification of the contractor shall not be obliterated;

(c) the public entity may affirm or deny that a person(s) was or is employed on a public works contract (by a specific contractor) when asked, so long as the entity requires such information of an identifying nature which will reasonably preclude release of private or confidential information.

3 . Audits/Investigations.

Audits/investigations may be conducted by County of Inyo Department of Public Works when deemed necessary, and shall be conducted at the request of the Labor Commissioner.

A. An audit consists of a comparison of payroll records to the best available information as to the actual hours worked, amounts paid and classifications of workers employed on the contract. An Audit is sufficiently detailed when it enables the Labor Commissioner, if requested, to determine the amount of forfeiture under section 16437, to draw reasonable conclusions as to compliance with the requirements of the Public Works Chapter of the Labor Code, and to enable accurate computation of underpayments of wages to workers and of applicable penalties and forfeitures.

B. An Audit using the forms in Appendix B, when accompanied by a brief narrative identifying the Bid Advertisement Date of the contract for public work and summarizing the nature of the violation and the basis upon which the determination of underpayment was made, presumptively demonstrates sufficiency.

§16432. Investigation Methods for Labor Compliance Program-Definitions and Minimum Requirements, Including Review, Confirmation and Audits of Payroll Records; On-Site Visits; and Early Resolution of Audits.

(a) The primary function of the Labor Compliance Program is to ensure that public works contractors comply with the prevailing wage requirements found in the Public Works Chapter of the Labor Code. This regulation is intended to establish minimum requirements which all Labor Compliance Programs shall meet or exceed in carrying out that function. Definitions found throughout this regulation are intended to provide Labor Compliance Programs and representatives of the Department of Industrial Relations and the Division of Labor Standards Enforcement with common terminology as they each perform their respective roles in prevailing wage enforcement in furtherance of the Labor Code provisions establishing Labor Compliance Programs. This regulation is also intended to confirm that the proactive investigation methods, as described in detail herein, only comprise the minimum obligations required of Labor Compliance Programs to satisfy their duty to the Director to operate a Labor Compliance Program as specified in sections 16428 and 16434.

(b) Payroll records furnished by contractors and subcontractors in accordance with section 16421(a)(3) above, and in a format prescribed at section 16401 of Title 8 of the California Code of Regulations, shall be reviewed by the Labor Compliance Program as promptly as practicable after receipt thereof, but in no event more than 30 days after such receipt. "Review" for this purpose shall be defined as inspection of the records furnished to determine if (1) all appropriate data elements identified in Labor Code Section 1776(a) have been reported; (2) certification forms have been completed and signed in compliance with Labor Code Section 1776(b); and (3) the correct prevailing wage rates have been reported as paid for each classification of labor listed thereon, with confirmation of payment in the manner and to the extent described in subpart (c) below.

(c) "Confirmation" of payroll records furnished by contractors and subcontractors shall be defined as an independent corroboration of reported prevailing wage payments. Confirmation may be accomplished through worker interviews, examination of paychecks or paycheck stubs, direct

confirmation of payments from third party recipients of "Employer Payments" (as defined at section 16000 of Title 8 of the California Code of Regulations), or any other reasonable method of corroboration. For each month in which a contractor or subcontractor reports having workers employed on the public work, confirmation of furnished payroll records shall be undertaken randomly for at least one worker for at least one weekly period within that month. Confirmation shall also be undertaken whenever complaints from workers or other interested persons or other circumstances or information reasonably suggest to the Labor Compliance Program that payroll records furnished by a contractor or subcontractor are inaccurate.

(d) Representatives of the Labor Compliance Program shall conduct in-person inspections at the site or sites at which the contract for public work is being performed ("On-Site Visits"). On-Site Visits may be undertaken randomly or as deemed necessary by the Labor Compliance Program, but shall be undertaken during each week that workers are present at sites at which the contract for public work is being performed. All On-Site Visits shall include visual inspection of (1) the copy of the determination(s) of the Director of Industrial Relations of the prevailing wage rate of per diem wages required to be posted at each job site in compliance with Labor Code Section 1773.2, and (2) the Notice of Labor Compliance Program Approval required to be posted at the job site in accordance with section 16429 above, listing a telephone number to call for inquiries, questions, or assistance with regard to the Labor Compliance Program. On-Site Visits may include other activities deemed necessary by the Labor Compliance Program to independently corroborate prevailing wage payments reported on payroll records furnished by contractors and subcontractors.

(e) An Audit, as defined herein, shall be prepared by the Labor Compliance Program whenever the Labor Compliance Program has determined that there has been a violation of the Public Works Chapter of the Labor Code resulting in the underpayment of wages. An "Audit" for this purpose shall be defined as a written summary reflecting prevailing wage deficiencies for each underpaid worker, and including any penalties to be assessed under Labor Code Sections 1775 and 1813, as determined by the Labor Compliance Program after consideration of the best information available as to actual hours worked, amounts paid, and classifications of workers employed in connection with the public work. Such available information may include, but is not limited to, worker interviews, complaints from workers or other interested persons, all time cards, cancelled checks, cash receipts, trust fund forms, books, documents, schedules, forms, reports, receipts or other evidences which reflect job assignments, work schedules by days and hours, and the disbursement by way of cash, check, or in whatever form or manner, of funds to a person(s) by job classification and/or skill pursuant to a public works project. An Audit is sufficiently detailed when it enables the Labor Commissioner, if requested to determine the amount of forfeiture under section 16437, to draw reasonable conclusions as to compliance with the requirements of the Public Works Chapter of the Labor Code, and to enable accurate computation of underpayments of wages to workers and of applicable penalties and forfeitures. An Audit using the forms in Appendix B, when accompanied by a brief narrative identifying the Bid Advertisement Date of the contract for public work and summarizing the nature of the violation and the basis upon which the determination of underpayment was made, presumptively demonstrates sufficiency. Records supporting an Audit shall be maintained by the Labor Compliance Program to satisfy its burden of coming forward with evidence in administrative review proceedings under Labor Code Section 1742 and the Prevailing Wage Hearing Regulations found at sections 17201-17270 of Title 8 of the California Code of Regulations.

(f) After the Labor Compliance Program has determined that violations of the prevailing wage laws have resulted in the underpayment of wages and an audit has been prepared, notification shall be

provided to the contractor and affected subcontractor of an opportunity to resolve the wage deficiency prior to a determination of the amount of forfeiture by the Labor Commissioner pursuant to these regulations. The contractor and affected subcontractor shall be provided at least 10 days following such notification to submit exculpatory information consistent with the "good faith mistake" factors set forth in Labor Code Section 1775(a)(2)(A)(i) and (ii). If, based upon the contractor's submission, the Labor Compliance Program reasonably concludes that the failure to pay the correct wages was a good faith mistake, and has no knowledge that the contractor and affected subcontractor have a prior record of failing to meet their prevailing wage obligations, the Labor Compliance Program shall not be required to request the Labor Commissioner for a determination of the amount of penalties to be assessed under Labor Code Section 1775 if the underpayment of wages to workers is promptly corrected and proof of such payment is submitted to the Labor Compliance Program. For each instance in which a wage deficiency is resolved in accordance with this regulation, the Labor Compliance Program shall maintain a written record of the failure of the contractor or subcontractor to meet its prevailing wage obligation. The record shall identify the public works project, the contractor or affected subcontractor involved, and the gross amount of wages paid to workers to resolve the prevailing wage deficiency; and the record shall also include a copy of the Audit prepared pursuant to subpart (e) above along with any exculpatory information submitted to the Labor Compliance Program by the affected contractor or subcontractor.

4. Complaints. Upon receipt of a written complaint alleging that a contractor or subcontractor has failed to pay prevailing wages as required by the Labor Code, the LCP shall do all of the following:
   A. Within 15 days after receipt of the complaint, send a written acknowledgment to the complaining party that the complaint has been received and identifying the name, address, and telephone number of the investigator assigned to the complaint;
   B. Within 15 days after receipt of the complaint, provide the affected contractor with the notice required under Labor Code section 1775(c) if the complaint is against a subcontractor;
   C. Notify the complaining party in writing of the resolution of the complaint within ten days after the complaint has been resolved by the LCP;
   D. Notify the complaining party in writing at least once every 30 days of the status of a complaint that has not been resolved by the LCP; and
   E. Notify the complaining party in writing at least once every 90 days of the status of a complaint that has been resolved by the LCP but remains under review or in litigation before another entity.
   F. After it is determined that an underpayment of wages occurred and an audit prepared, notification shall be provided to the contractor and affected subcontractor of an opportunity to resolve the wage deficiency prior to prior to a determination by the Labor Commissioner pursuant to California Code of Regulations Section 16432(f).

5. Apprenticeship. The duties of a LCP with respect to apprenticeship standards are as follows:
   A. Either the Awarding Body or the County of Inyo Department of Public Works acting on its behalf shall:
      1. Inform contractors and subcontractors bidding public works about apprenticeship requirements,
      2. send copies of awards and notices of discrepancies to the Division of Apprenticeship Standards as required under Section 1773.3 of the Labor Code, and
      3. Refer complaints and promptly report suspected violations of apprenticeship requirements to the Division of Apprenticeship Standards.

B. The LCP shall be responsible for enforcing prevailing wage pay requirements for apprentices consistent with the practice of the Labor Commissioner, including

1. That any contributions required pursuant to Labor Code Section 1777.5(m) are paid to the appropriate entity,
2. That apprentices are paid no less than the prevailing apprentice rate,
3. that workers listed and paid as apprentices on the certified payroll records are duly registered as apprentices with the Division of Apprenticeship Standards, and
4. Requiring that the regular prevailing wage rate be paid (i) to any worker who is not a duly registered apprentice and (ii) for all hours in excess of the maximum ratio permitted under Labor Code Section 1777.5(g), as determined at the conclusion of the employing contractor or subcontractor's work on the public works contract.

6. Use of Electronic Reporting Forms

Certified payroll records required by Labor Code Section 1776 may be maintained and submitted electronically, subject to the following conditions:

A. Reports must contain all of the information required by Labor Code Section 1776;

B. Information must be organized in a manner that is similar or identical to the Department of Industrial Relations "Public Works Payroll Reporting Form" (Form A-1-131);

C. Reports shall be in a format and use software that is readily accessible and available to Contractors, Subcontractors & the Awarding Body, LCP and the Department of Industrial Relations;

D. Reports must be in the form of a non-modifiable image or record: and

E. Reports must bear an electronic signature or include a copy of an original certification made on paper or printed out and submitted on paper with an original signature.

F. No contractor or subcontractor shall be mandated to submit or receive electronic reports when it otherwise lacks the resources or capacity to do so, nor shall any contractor or subcontractor be required to purchase or use proprietary software that is not generally available to the public.

7. Full Accountability

Each individual, laborer or craftsperson working on a public works contract must appear on the payroll. The basic concept is that the employer who pays the trades worker must report that individual on its payroll. This includes individuals working as apprentices in an apprenticeable trade. Owner-operators are to be reported by the contractor employing them, rental equipment operators are to be reported by the rental company paying the workers' wages.

Sole owners and partners who work on a contract must also submit a certified payroll record listing the days and hours worked, and the trade classification descriptive of the work actually done.

The contractor shall provide the records required under this section to the County of Inyo Department of Public Works within five (5) days of each payday, and available for inspection by the Department of Industrial Relations, and shall permit representatives of each to interview tradespersons during working hours on the project site.

8. Responsibility for Subcontractors

The contractor shall be responsible for ensuring adherence to labor standards provisions by its subcontractors. Moreover, the prime contractor is responsible for Labor Code violations of its subcontractors in accordance with Labor Code section 1775.

9. Payment to Employees

Employees must be paid unconditionally, the full amounts that are due and payable for the period covered by the particular payday. Thus, an employer must establish a fixed workweek (Sunday through Saturday, for example) and an established payday (such as every Friday or the preceding day should such payday fall on a holiday). On each and every payday, each worker must be paid all sums due as of the end of the preceding workweek and must be provided with an itemized wage statement.

If an individual is called a subcontractor, whereas, in fact, he/she is merely a journey level mechanic supplying only his/her labor, such an individual would not be deemed a bona fide subcontractor and must be reported on the payroll of the prime contractor as a trades worker. Moreover, any person who does not hold a valid contractor's license cannot be a subcontractor, and anyone hired by that person is the worker or employee of the general contractor for purposes of prevailing wage requirements, certified payroll reporting and workers' compensation laws.

The worker's rate for straight time hours must equal or exceed the rate specified in the contract by reference to the "Prevailing Wage Determinations" for the class of work actually performed. Any work performed on Saturday, Sunday, and/or on a holiday, or portion thereof, must be paid the prevailing rate established for those days regardless of the fixed workweek. The hourly rate for hours worked in excess of 8 hours in a day and 40 hours in a workweek shall be premium pay. All work performed on Saturday, Sunday and holidays shall be paid pursuant to the Prevailing Wage determination.

10. A representative of the LCP shall conduct weekly in-person inspections at the site or sites at which the work is being performed. Pursuant to California Code of Regulations Section 16432 (d) weekly on-site visits shall be undertaken during each week that workers are present a the site which work is performed and shall include a visual inspection of the copy of the applicable prevailing wage determination required to be posted at the site, as well as the required Notice of Labor Compliance Program Approval posted listing a phone number to call for inquiries.

B. Apprentices

Apprentices shall be permitted to work as such only when they are registered, individually, under a bona fide apprenticeship program registered and approved by the State Division of Apprenticeship Standards. The allowable ratio of apprentices to journeypersons in any craft/classification shall not be greater than the ratio permitted to the contractor as to its entire workforce under the registered program.

Any worker listed on a payroll at an apprentice wage rate who is not registered shall be paid the journey level wage rate determined by the Department of Industrial Relations for the classification of the work he/she actually performed. Pre-apprentice trainees, trainees in non-apprenticeable crafts, and others who are not duly registered will not be permitted on public works projects unless they are paid full prevailing wage rates as journeypersons.

Compliance with California Labor Code Section 1777.5 requires all public works contractors and subcontractors to:

1. Submit contract award information to the apprenticeship committee for each apprenticeable craft or trade in the area of the Project;

2. Request dispatch of apprentices from the applicable Apprenticeship Program(s) and employ apprentices on public works projects in a ratio to journeypersons which in no case shall be less than one (1) hour of apprentice work to each five (5) hours of journeyperson work; and

3. Contribute to the applicable Apprenticeship Program(s) or the California Apprenticeship Council in the amount identified in the prevailing wage rate publication for journeypersons and apprentices. If payments are not made to an Apprenticeship Program, they shall be made to the California Apprenticeship Council, Post Office Box 420603, San Francisco, CA 94142.

If the contractor is registered to train apprentices, it shall furnish written evidence of the registration (i.e., Apprenticeship Agreement or Statement of Registration) of its training program and apprentices, as well as the ratios allowed and the wage rates required to be paid there under for the area of construction, prior to using any apprentices in the contract work. It should be noted that a prior approval for a separate project does not confirm approval to train on any project. The contractor/subcontractor must check with the applicable Joint Apprenticeship Committee to verify status.

C. <u>Audit of Certified Payroll Records</u>

Audits shall be conducted by the LCO, and shall also be conducted at the request of the Labor Commissioner to determine whether all tradespersons on project sites have been paid according to the prevailing wage rates.

The audit record form (presented as Attachment B) demonstrates the sufficient detail that is necessary to verify compliance with Labor Code requirements.

1. An audit consists of a comparison of payroll records to the best available information as to the actual hours worked, amounts paid and classifications of workers employed on the contract. An Audit is sufficiently detailed when it enables the Labor Commissioner, if requested, to determine the amount of forfeiture under section 16437, to draw reasonable conclusions as to compliance with the requirements of the Public Works Chapter of the Labor Code, and to enable accurate computation of underpayments of wages to workers and of applicable penalties and forfeitures.

2. An Audit using the forms in Attachment B, when accompanied by a brief narrative identifying the Bid Advertisement Date of the contract for public work and summarizing the nature of the violation and the basis upon which the determination of underpayment was made, presumptively demonstrates sufficiency.
   After it is determined that an underpayment of wages occurred and an audit prepared, notification shall be provided to the contractor and affected subcontractor of an opportunity to resolve the wage deficiency prior to prior to a determination by the Labor Commissioner pursuant to California Code of Regulations Section 16432(f).

(a) The primary function of the Labor Compliance Program is to ensure that public works contractors comply with the prevailing wage requirements found in the Public Works Chapter of the Labor Code. This regulation is intended to establish minimum requirements which all Labor Compliance Programs shall meet or exceed in carrying out that function. Definitions found throughout this regulation are intended to provide Labor Compliance Programs and representatives of the Department of Industrial Relations and the Division of Labor Standards Enforcement with common terminology as they each perform their respective roles in prevailing wage enforcement in furtherance of the Labor Code provisions establishing Labor Compliance Programs. This regulation is also intended to confirm that the proactive investigation methods, as described in detail herein, only comprise the minimum obligations required of Labor Compliance Programs to satisfy their duty to the Director to operate a Labor Compliance Program as specified in sections 16428 and 16434.

(b) Payroll records furnished by contractors and subcontractors in accordance with section 16421(a)(3) above, and in a format prescribed at section 16401 of Title 8 of the California Code of Regulations, shall be reviewed by the Labor Compliance Program as promptly as practicable after receipt thereof, but in no event more than 30 days after such receipt. "Review" for this purpose shall be defined as inspection of the records furnished to determine if (1) all appropriate data elements identified in Labor Code Section 1776(a) have been reported; (2) certification forms have been completed and signed in compliance with Labor Code Section 1776(b); and (3) the correct prevailing wage rates have been reported as paid for each classification of labor listed thereon, with confirmation of payment in the manner and to the extent described in subpart (c) below.

(c) "Confirmation" of payroll records furnished by contractors and subcontractors shall be defined as an independent corroboration of reported prevailing wage payments. Confirmation may be accomplished through worker interviews, examination of paychecks or paycheck stubs, direct confirmation of payments from third party recipients of "Employer Payments" (as defined at section 16000 of Title 8 of the California Code of Regulations), or any other reasonable method of corroboration. For each month in which a contractor or subcontractor reports having workers employed on the public work, confirmation of furnished payroll records shall be undertaken randomly for at least one worker for at least one weekly period within that month. Confirmation shall also be undertaken whenever complaints from workers or other interested persons or other circumstances or information reasonably suggest to the Labor Compliance Program that payroll records furnished by a contractor or subcontractor are inaccurate.

(d) Representatives of the Labor Compliance Program shall conduct in-person inspections at the site or sites at which the contract for public work is being performed ("On-Site Visits"). On-Site Visits may be undertaken randomly or as deemed necessary by the Labor Compliance Program, but shall be undertaken during each week that workers are present at sites at which the contract for public work is being performed. All On-Site Visits shall include visual inspection of (1) the copy of the determination(s) of the Director of Industrial Relations of the prevailing wage rate of per diem wages required to be posted at each job site in compliance with Labor Code Section 1773.2, and (2) the Notice of Labor Compliance Program Approval required to be posted at the job site in accordance with section 16429 above, listing a telephone number to call for inquiries, questions, or assistance with regard to the Labor Compliance Program. On-Site Visits may include other activities deemed necessary by the Labor Compliance Program to independently corroborate prevailing wage payments reported on payroll records furnished by contractors and subcontractors.

(e) An Audit, as defined herein, shall be prepared by the Labor Compliance Program whenever the

Labor Compliance Program has determined that there has been a violation of the Public Works Chapter of the Labor Code resulting in the underpayment of wages. An "Audit" for this purpose shall be defined as a written summary reflecting prevailing wage deficiencies for each underpaid worker, and including any penalties to be assessed under Labor Code Sections 1775 and 1813, as determined by the Labor Compliance Program after consideration of the best information available as to actual hours worked, amounts paid, and classifications of workers employed in connection with the public work. Such available information may include, but is not limited to, worker interviews, complaints from workers or other interested persons, all time cards, cancelled checks, cash receipts, trust fund forms, books, documents, schedules, forms, reports, receipts or other evidences which reflect job assignments, work schedules by days and hours, and the disbursement by way of cash, check, or in whatever form or manner, of funds to a person(s) by job classification and/or skill pursuant to a public works project. An Audit is sufficiently detailed when it enables the Labor Commissioner, if requested to determine the amount of forfeiture under section 16437, to draw reasonable conclusions as to compliance with the requirements of the Public Works Chapter of the Labor Code, and to enable accurate computation of underpayments of wages to workers and of applicable penalties and forfeitures. An Audit using the forms in Appendix B, when accompanied by a brief narrative identifying the Bid Advertisement Date of the contract for public work and summarizing the nature of the violation and the basis upon which the determination of underpayment was made, presumptively demonstrates sufficiency. Records supporting an Audit shall be maintained by the Labor Compliance Program to satisfy its burden of coming forward with evidence in administrative review proceedings under Labor Code Section 1742 and the Prevailing Wage Hearing Regulations found at sections 17201-17270 of Title 8 of the California Code of Regulations.

(f) After the Labor Compliance Program has determined that violations of the prevailing wage laws have resulted in the underpayment of wages and an audit has been prepared, notification shall be provided to the contractor and affected subcontractor of an opportunity to resolve the wage deficiency prior to a determination of the amount of forfeiture by the Labor Commissioner pursuant to these regulations. The contractor and affected subcontractor shall be provided at least 10 days following such notification to submit exculpatory information consistent with the "good faith mistake" factors set forth in Labor Code Section 1775(a)(2)(A)(i) and (ii). If, based upon the contractor's submission, the Labor Compliance Program reasonably concludes that the failure to pay the correct wages was a good faith mistake, and has no knowledge that the contractor and affected subcontractor have a prior record of failing to meet their prevailing wage obligations, the Labor Compliance Program shall not be required to request the Labor Commissioner for a determination of the amount of penalties to be assessed under Labor Code Section 1775 if the underpayment of wages to workers is promptly corrected and proof of such payment is submitted to the Labor Compliance Program. For each instance in which a wage deficiency is resolved in accordance with this regulation, the Labor Compliance Program shall maintain a written record of the failure of the contractor or subcontractor to meet its prevailing wage obligation. The record shall identify the public works project, the contractor or affected subcontractor involved, and the gross amount of wages paid to workers to resolve the prevailing wage deficiency; and the record shall also include a copy of the Audit prepared pursuant to subpart (e) above along with any exculpatory information submitted to the Labor Compliance Program by the affected contractor or subcontractor.

3. Apprenticeship. The duties of a LCP with respect to apprenticeship standards are as follows:
   A. Either the Awarding Body or the LCP acting on its behalf shall:

1. Inform contractors and subcontractors bidding public works about apprenticeship requirements,
2. send copies of awards and notices of discrepancies to the Division of Apprenticeship Standards as required under Section 1773.3 of the Labor Code, and
3. Refer complaints and promptly report suspected violations of apprenticeship requirements to the Division of Apprenticeship Standards.

B. The LCP shall be responsible for enforcing prevailing wage pay requirements for apprentices consistent with the practice of the Labor Commissioner, including

1. That any contributions required pursuant to Labor Code Section 1777.5(m) are paid to the appropriate entity,
2. That apprentices are paid no less than the prevailing apprentice rate,
3. that workers listed and paid as apprentices on the certified payroll records are duly registered as apprentices with the Division of Apprenticeship Standards, and
4. Requiring that the regular prevailing wage rate be paid (i) to any worker who is not a duly registered apprentice and (ii) for all hours in excess of the maximum ratio permitted under Labor Code Section 1777.5(g), as determined at the conclusion of the employing contractor or subcontractor's work on the public works contract.

SECTION V
REPORTING OF WILLFUL VIOLATIONS TO THE LABOR COMMISSIONER

If an investigation reveals that a willful violation of the Labor Code has occurred, the LCO will make a written report to the Labor Commissioner which shall include: (1) an audit consisting of a comparison of payroll records to the best available information as to the actual hours worked, (2) the classification of workers employed on the public works contract. Six (6) types of willful violations are reported:

A. Failure to Comply with Prevailing Wage Rate Requirements Failure to comply with prevailing wage rate requirements (as set forth in the Labor Code and County contracts) is determined a willful violation whenever less than the stipulated basic hourly rate is paid to tradespersons, or if overtime, holiday rates, fringe benefits, and/or employer payments are paid at a rate less than stipulated.

B. Falsification of Payroll Records, Misclassification of Work, and/or Failure to Accurately Report Hours of Work Falsification of payroll records and failure to accurately report hours of work is characterized by deliberate underreporting of hours of work; underreporting the headcount; stating that the proper prevailing wage rate was paid when, in fact, it was not; clearly misclassifying the work performed by the worker; and any other deliberate and/or willful act which results in the falsification or inaccurate reporting of payroll records.

C. Failure to Submit Certified Payroll Records The contractors and subcontractors shall have ten (10) days upon notification by the LCO in which to comply with the requirement of submittal of weekly and/or to correct inaccuracies or omissions that have been detected.

D. For Failure to Pay Fringe Benefits Fringe benefits are defined as the amounts stipulated for employer payments or trust fund contributions and are determined to be part of the required prevailing wage rate. Failure to pay or provide fringe benefits and/or make trust fund contributions on a timely basis is equivalent to payment of less than the stipulated wage rate

and shall be reported to the Labor Commissioner as a willful violation, upon completion of an investigation and audit.

E. Failure to Pay the Correct Apprentice Rates and/or Misclassification of Workers as Apprentices Failure to pay the correct apprentice rate or classifying a worker as an apprentice when not properly registered is equivalent to payment of less than the stipulated wage rate and shall be reported to the Labor Commissioner, as a willful violation, upon completion of an investigation and audit.

F. For the taking of Kickbacks Accepting or extracting kickbacks from employee wages under Labor Code Section 1778 constitutes a felony and may be prosecuted by the appropriate enforcement agency.

SECTION VI
ENFORCEMENT ACTION

A. Duties of the LCP
The County of Inyo Department of Public Works having an approved LCP, has a duty to the Director of the Department of Industrial Relations to enforce Labor Code section 1720 et seq. in a manner consistent with the practice of the Division of Labor Standards Enforcement (DLSE) and as set forth in regulations found at 8 CCR section 16000 et seq., and in accordance with Important Decisions issued by the Director and which are available at the Department of Industrial Relations Home Page (www.dir.ca.gov) and links to that page. The Awarding Body shall undertake enforcement action in furtherance of its responsibilities as follows:

§16421. Composition and Components of Labor Compliance Program.

(d) Nothing in this section or these regulations shall be construed as limiting the responsibility and authority of an Awarding Body to take cognizance of prevailing wage violations under Section 1726 of the Labor Code and take any appropriate action pursuant to and in accordance with that responsibility and authority.

(e) It is the responsibility of a Labor Compliance Program to enforce prevailing wage requirements, consistent with the policy of the state as expressed in Labor Code Section 90.5(a). A Labor Compliance Program shall take reasonable, vigorous, and prompt action to (1) determine whether violations exist, and (2) enforce compliance, including through imposition of appropriate penalties and formal enforcement action, when violations are found. A Labor Compliance Program shall neither avoid use of its enforcement authority based on cost considerations nor shall it use that authority in an unreasonable manner to gain leverage over a contractor or subcontractor. Unreasonable use of enforcement authority includes, but is not necessarily limited to, prolonged or excessive withholdings of contract payments without making a determination that a violation has occurred.

§16434. Duties of Labor Compliance Program.

(d) For each public work project subject to a Labor Compliance Program's enforcement of prevailing wage requirements, a separate, written summary of labor compliance activities and relevant facts pertaining to that particular project shall be maintained. That summary shall demonstrate that reasonable and sufficient efforts have been made to enforce prevailing wage

requirements consistent with the practice of the Labor Commissioner. Appendix C following this section provides a suggested format for tracking and monitoring enforcement activities. Compliance records for a project shall be retained until the later of (1) at least one year after the acceptance of the public work or five years after the cessation of all labor on a public work that has not been accepted, or (2) one year after a final decision or judgment in any litigation under Labor Code Section 1742. For purposes of this section, a written summary or report includes information maintained electronically, provided that the summary or report can be printed out in hard copy form or is in an electronic format that (1) can be transmitted by e-mail or compact disk and (2) would be acceptable for the filing of documents in a federal or state court of record within this state.

1. Review Certified Payroll Records. Certified payroll records furnished by contractors and subcontractors shall be regularly and timely reviewed by the Awarding Body to monitor payment of prevailing wages. (See LCP, Section IV, Certified Payroll Records)
2. Audits/Investigations. Audits/investigations may be conducted by the Awarding Body when deemed necessary, and shall be conducted at the request of the Labor Commissioner.
    a. An audit consists of a comparison of payroll records to the best available information as to the actual hours worked and classifications of workers employed on the contract. Records should be made available to show that the audits conducted are sufficiently detailed to verify compliance with the prevailing wage requirements of the Labor Code.
    b. An audit record in the form set out in Attachment B, and as provided in 8 CCR section 16432, complies with the Labor Code requirement.

§16432. Investigation Methods for Labor Compliance Program-Definitions and Minimum Requirements, Including Review, Confirmation and Audits of Payroll Records; On-Site Visits; and Early Resolution of Audits.

(a) The primary function of the Labor Compliance Program is to ensure that public works contractors comply with the prevailing wage requirements found in the Public Works Chapter of the Labor Code. This regulation is intended to establish minimum requirements which all Labor Compliance Programs shall meet or exceed in carrying out that function. Definitions found throughout this regulation are intended to provide Labor Compliance Programs and representatives of the Department of Industrial Relations and the Division of Labor Standards Enforcement with common terminology as they each perform their respective roles in prevailing wage enforcement in furtherance of the Labor Code provisions establishing Labor Compliance Programs. This regulation is also intended to confirm that the proactive investigation methods, as described in detail herein, only comprise the minimum obligations required of Labor Compliance Programs to satisfy their duty to the Director to operate a Labor Compliance Program as specified in sections 16428 and 16434.

(b) Payroll records furnished by contractors and subcontractors in accordance with section 16421(a)(3) above, and in a format prescribed at section 16401 of Title 8 of the California Code of Regulations, shall be reviewed by the Labor Compliance Program as promptly as practicable after receipt thereof, but in no event more than 30 days after such receipt. "Review" for this purpose shall be defined as inspection of the records furnished to determine if (1) all appropriate data elements identified in Labor Code Section 1776(a) have been reported; (2) certification forms have been completed and signed in compliance with Labor Code Section 1776(b); and (3) the correct

prevailing wage rates have been reported as paid for each classification of labor listed thereon, with confirmation of payment in the manner and to the extent described in subpart (c) below.

(c) "Confirmation" of payroll records furnished by contractors and subcontractors shall be defined as an independent corroboration of reported prevailing wage payments. Confirmation may be accomplished through worker interviews, examination of paychecks or paycheck stubs, direct confirmation of payments from third party recipients of "Employer Payments" (as defined at section 16000 of Title 8 of the California Code of Regulations), or any other reasonable method of corroboration. For each month in which a contractor or subcontractor reports having workers employed on the public work, confirmation of furnished payroll records shall be undertaken randomly for at least one worker for at least one weekly period within that month. Confirmation shall also be undertaken whenever complaints from workers or other interested persons or other circumstances or information reasonably suggest to the Labor Compliance Program that payroll records furnished by a contractor or subcontractor are inaccurate.

(d) Representatives of the Labor Compliance Program shall conduct in-person inspections at the site or sites at which the contract for public work is being performed ("On-Site Visits"). On-Site Visits may be undertaken randomly or as deemed necessary by the Labor Compliance Program, but shall be undertaken during each week that workers are present at sites at which the contract for public work is being performed. All On-Site Visits shall include visual inspection of (1) the copy of the determination(s) of the Director of Industrial Relations of the prevailing wage rate of per diem wages required to be posted at each job site in compliance with Labor Code Section 1773.2, and (2) the Notice of Labor Compliance Program Approval required to be posted at the job site in accordance with section 16429 above, listing a telephone number to call for inquiries, questions, or assistance with regard to the Labor Compliance Program. On-Site Visits may include other activities deemed necessary by the Labor Compliance Program to independently corroborate prevailing wage payments reported on payroll records furnished by contractors and subcontractors.

(e) An Audit, as defined herein, shall be prepared by the Labor Compliance Program whenever the Labor Compliance Program has determined that there has been a violation of the Public Works Chapter of the Labor Code resulting in the underpayment of wages. An "Audit" for this purpose shall be defined as a written summary reflecting prevailing wage deficiencies for each underpaid worker, and including any penalties to be assessed under Labor Code Sections 1775 and 1813, as determined by the Labor Compliance Program after consideration of the best information available as to actual hours worked, amounts paid, and classifications of workers employed in connection with the public work. Such available information may include, but is not limited to, worker interviews, complaints from workers or other interested persons, all time cards, cancelled checks, cash receipts, trust fund forms, books, documents, schedules, forms, reports, receipts or other evidences which reflect job assignments, work schedules by days and hours, and the disbursement by way of cash, check, or in whatever form or manner, of funds to a person(s) by job classification and/or skill pursuant to a public works project. An Audit is sufficiently detailed when it enables the Labor Commissioner, if requested to determine the amount of forfeiture under section 16437, to draw reasonable conclusions as to compliance with the requirements of the Public Works Chapter of the Labor Code, and to enable accurate computation of underpayments of wages to workers and of applicable penalties and forfeitures. An Audit using the forms in Appendix B, when accompanied by a brief narrative identifying the Bid Advertisement Date of the contract for public work and summarizing the nature of the violation and the basis upon which the determination of underpayment was made, presumptively demonstrates sufficiency. Records supporting an Audit shall be maintained by the Labor Compliance Program to satisfy its burden of coming forward with

evidence in administrative review proceedings under Labor Code Section 1742 and the Prevailing Wage Hearing Regulations found at sections 17201-17270 of Title 8 of the California Code of Regulations.

(f) After the Labor Compliance Program has determined that violations of the prevailing wage laws have resulted in the underpayment of wages and an audit has been prepared, notification shall be provided to the contractor and affected subcontractor of an opportunity to resolve the wage deficiency prior to a determination of the amount of forfeiture by the Labor Commissioner pursuant to these regulations. The contractor and affected subcontractor shall be provided at least 10 days following such notification to submit exculpatory information consistent with the "good faith mistake" factors set forth in Labor Code Section 1775(a)(2)(A)(i) and (ii). If, based upon the contractor's submission, the Labor Compliance Program reasonably concludes that the failure to pay the correct wages was a good faith mistake, and has no knowledge that the contractor and affected subcontractor have a prior record of failing to meet their prevailing wage obligations, the Labor Compliance Program shall not be required to request the Labor Commissioner for a determination of the amount of penalties to be assessed under Labor Code Section 1775 if the underpayment of wages to workers is promptly corrected and proof of such payment is submitted to the Labor Compliance Program. For each instance in which a wage deficiency is resolved in accordance with this regulation, the Labor Compliance Program shall maintain a written record of the failure of the contractor or subcontractor to meet its prevailing wage obligation. The record shall identify the public works project, the contractor or affected subcontractor involved, and the gross amount of wages paid to workers to resolve the prevailing wage deficiency; and the record shall also include a copy of the Audit prepared pursuant to subpart (e) above along with any exculpatory information submitted to the Labor Compliance Program by the affected contractor or subcontractor.

B. Withholding Contract Payments for Violations of the Requirements of Chapter 1 of Part 7 of Division 2 of the Labor Code.

Following Notification by County of Inyo Department of Public Works shall withhold contract payments when payroll records are delinquent or inadequate or when, after an investigation, it is established that underpayment of the prevailing wage has occurred. The authority of an approved LCP to withhold contract payments is found in Labor Code section 1771.6 and is also subject to provisions contained at 8 CCR section 16435 et seq. County of Inyo Department of Public Works will refer to the Director's ongoing advisory service of web-posted public works coverage determinations as a source of information and guidance in making enforcement decisions. The withholding of contract payments when payroll records are delinquent or inadequate is required by Labor Code Section 1771.5(b)(5), and does not require the prior approval of the Labor Commissioner. The Awarding Body on behalf of County of Inyo Department of Public Works shall only withhold those payments due or estimated to be due to the contractor or subcontractor whose payroll records are delinquent or inadequate, plus any additional amount that the Labor Compliance Program has reasonable cause to believe may be needed to cover a back wage and penalty assessment against the contractor or subcontractor whose payroll records are delinquent or inadequate; *provided that* a contractor shall be required in turn to cease all payments to a subcontractor whose payroll records are delinquent or inadequate until the Labor Compliance Program provides notice that the subcontractor has cured the delinquency or deficiency.

1. When contract payments are withheld under this section, the Awarding Body Labor Compliance Program shall provide the contractor and subcontractor, if applicable, with immediate written notice that includes all of the following:

a. A statement that payments are being withheld due to delinquent or inadequate payroll records, and that identifies what records are missing or states why records that have been submitted are deemed inadequate;

i. The specific amount being withheld; and

ii. Information regarding the contractor's or subcontractor's right to request an expedited hearing to review the withholding of contract payments under Labor Code Section 1742, limited to the issue of whether the records are delinquent or inadequate or the Labor Compliance Program has exceeded its authority under this section.

b. No contract payments shall be withheld solely on the basis of delinquent or inadequate payroll records after the required records have been produced.

i. In addition to withholding contract payments based on delinquent or inadequate payroll records, penalties shall be assessed under Labor Code Section 1776(h) for failure to timely comply with a written request for certified payroll records. The LCP will obtain approval of the Labor Commissioner for the assessment of penalties under Labor Code Section 1776(h).

2. As explained more fully below, the LCP will first obtain approval from the Labor Commissioner of the amounts of unpaid penalty and wage money assessed by the Awarding Body ("forfeitures") for violations of the prevailing wage laws where those amounts total $1,000.00 or more. Thereafter, the Awarding Body will provide notice of withholding of contract payments to the contractor and other affected parties (a subcontractor and bonding company, if applicable) as required by law. The procedures to be followed by the Awarding Body in obtaining approval of a forfeiture from the Labor Commissioner and providing notice of withholding to the contractor and other affected parties will be consistent with the code sections and regulations cited above, and definitions included therein (see Appendix A – "Definitions" – attached hereto), and are summarized below in Steps1 and Step 2.

3. If the aggregate amount of forfeitures assessed as to a contractor or subcontractor is less than $1000.00, the forfeitures shall be deemed approved by the Labor Commissioner upon service and the Labor Commissioner's receipt of copies of the following:

a. The Notice of Withholding of Contract Payments authorized by Labor Code Section 1771.6(a);

b. An Audit as defined in 8 CCR section 16432(e);

c. A brief narrative identifying the Bid Advertisement Date of the contract for public work and summarizing the nature of the violation, the basis of the underpayment, and the factors considered in determining the assessment of penalties, if any, under Labor Code Section 1775.

3. Where the violation is by a subcontractor, the general contractor shall be notified of the nature of the violation and reference made to its rights under Labor Code Section 1729.

5. Step No. 1: Approval of Amount of Forfeiture by the Labor Commissioner

a. The LCP shall request approval of the amount of a proposed forfeiture by filing a report with the Labor Commissioner which contains at least the following information:
   1. Whether the public work has been accepted by the Awarding Body and whether a valid notice of completion has been filed, the dates if any when those events occurred, and the amount of funds being held in retention by the Awarding Body;
   2. Any other deadline which if missed would impede collection;
   3. Evidence of violation, in narrative form;
   4. Evidence of violation obtained under section 16432 of these regulations and a copy of the Audit prepared in accordance with section 16432(e) setting forth the amounts of unpaid wages and applicable penalties;

Note: A report requesting approval of the amount of a proposed forfeiture only assessed for delinquent or inadequate payroll records pursuant to Labor Code section 1776 (h) need only refer to evidence that the contractor failed to provide certified payroll records or basic payroll records (see, section IV A. 1. above) within ten (10) days of receipt of the request, and the amount of the proposed forfeiture for delinquent or inadequate payroll records calculated at one hundred dollars ($100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated.

6. Evidence that the contractor and subcontractor were given the opportunity to explain why there was no violation, or whether the failure to pay the correct rate of wages was a good faith mistake and, if so, whether the error was promptly and voluntarily corrected upon being brought to the attention of the contractor and subcontractor;
7. Where the LCP seeks not only amounts of wages but also a penalty under Labor Code section 1775 as part of the forfeiture, and the contractor or subcontractor has unsuccessfully contended that the cause of the violation was a good faith mistake, a short statement should recommend a penalty amount (computed at not more than two hundred dollars ($200) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rates), and reasons therefore; if the amount of wages sought involves overtime, penalties under Labor Code section 1813 should be calculated as follows: twenty-five dollars ($25) for each calendar day during which each worker was required or permitted to work more than eight hours in any one calendar day and 40 hours in any one calendar week.
8. Where the LCP seeks only wages, or a penalty under Labor Code Section 1775 of less than two hundred dollars ($200) per calendar day as part of the forfeiture, and the contractor has successfully contended that the cause of the violation was a good faith mistake, a short statement should recommend a penalty amount, and reasons therefore, pursuant to Labor Code section 1775; if the amount of wages sought involves overtime, penalties under Labor Code Section 1813 should be calculated as follows: twenty-five dollars ($25) for each calendar day during which each worker was required or permitted to work more than eight hours in any one calendar day and 40 hours in any one calendar week;
9. Whether the contractor or subcontractor has a prior record of failing to meet its prevailing wage obligations

10. Whether the LCP has been granted approval only on an interim or temporary basis under 8 CCR sections 16425 or 16426 or whether it has been granted extended approval under 8 CCR section 16427.

a. The report should be served on the Labor Commissioner as soon as practicable after the violation has been discovered, and not less than thirty days before final payment, but in no event later than 30 days after the Awarding Body's acceptance of the public work or 30 days after the filing of a valid Notice of Completion in the Office of the County Recorder, whichever occurs last.

b. A copy of the proposed forfeiture and the report shall be served on the contractor and subcontractor, if applicable, at the same time as it is sent to the Labor Commissioner. The LCP may exclude from the documents served on the contractor and subcontractor copies of documents secured from the contractor or subcontractor during an audit, investigation, or meeting, if those are clearly referenced in the report. The report shall be accompanied by the Notice of Deadlines form attached hereto as Attachment C.

c. The Labor Commissioner shall affirm, reject, or modify the forfeiture in whole or in part as to penalty and/or wages due.

d. The Labor Commissioner's determination of forfeiture is effective on one of the two following dates:

1. For all programs other than those having extended authority under 8 CCR section 16427, on the date the Labor Commissioner serves by first class mail, on the political subdivision and on the contractor, an endorsed copy of the proposed forfeiture, or a newly drafted forfeiture statement which sets out the amount of forfeiture approved. Service on the contractor is effective if made on the last address supplied by the contractor in the record. The Labor Commissioner's approval, modification or disapproval of the proposed forfeiture shall be served within 30 days of receipt of the proposed forfeiture.

2. For programs with extended approval under 8 CCR section 16427, approval is effective 20 days after the requested forfeitures are served upon the Labor Commissioner, unless the Labor Commissioner serves a notice upon the parties, within that time period, that this forfeiture request is subject to further review. For such programs, a notice that approval will follow such a procedure will be included in the transmittal of the forfeiture request to the contractor. If the Labor Commissioner notifies the parties of a decision to undertake further review, the Labor Commissioner's final approval, modification or disapproval of the proposed forfeiture shall be served within 30 days of the date of notice of further review.

6. Step No. 2 Notice of Withholding; Review Thereof; and Settlement Authority

a. <u>Notice of Withholding of Contract Payments</u>

After determination of the amount of forfeiture by the Labor Commissioner, the LCP shall provide notice of

withholding of contract payments to the contractor and subcontractor, if applicable. The notice shall be in writing and shall describe the nature of the violation and the amount of wages, penalties, and forfeitures withheld. Service of the notice shall be completed pursuant to Section 1013 of the Code of Civil Procedure by first-class and certified mail to the contractor and subcontractor, if applicable. The notice shall advise the contractor and subcontractor, if applicable, of the procedure for obtaining review of the withholding of contract payments. The awarding body shall also serve a copy of the notice by certified mail to any bonding company issuing a bond that secures the payment of prevailing wages covered by the notice and to any surety on a bond, if their identities are known to the LCP.

A copy of the Notice of Withholding of Contract Payments (NWCP) to be utilized by the Awarding Body is found as Attachment D to this document.

b. Review of NWCP

1. An affected contractor or subcontractor may obtain review of a NWCP under this chapter by transmitting a written request for a review hearing to the office of the LCP that appears on the NWCP within 60 days after service of the NWCP. If no hearing is requested within 60 days after the service of the NWCP, the NWCP shall become final.

2. Within ten days following the receipt of the request for a review hearing, the LCP shall transmit to the Office of the Director-Legal Unit the request for review and copies of the Notice of Withholding of Contract Payments, any audit summary that accompanied the notice, and a proof of service or other documents showing the name and address of any bonding company or surety that secures the payment of the wages covered by the notice.

A copy of the required Notice of Transmittal to be utilized by the LCP is found as Attachment G to this document.

3. The Awarding Body will be represented by an attorney in prevailing wage hearings conducted pursuant to Labor Code Section 1742(b) and sections 17201 – 17270 of Title 8 of the California Code of Regulations.

4. Upon receipt of a timely request, a hearing shall be commenced within 90 days before the director, who shall appoint an impartial hearing officer possessing the qualifications of an administrative law judge pursuant to subdivision (b) of Section 11502 of the Government Code. The appointed hearing officer shall be an employee of the department, but shall not be an employee of the Division of Labor Standards Enforcement. The contractor or subcontractor shall be provided an opportunity to review evidence to be utilized by the LCP at the hearing within 20 days of the receipt by the LCP of the written request for a hearing. Any evidence obtained by the LCP subsequent to the 20-day cutoff shall be promptly disclosed to the contractor or subcontractor.

A copy of the Notice of Opportunity to Review Evidence Pursuant to Labor Code Section 1742 (b) form is found as Attachment F to this document.

5. The contractor or subcontractor shall have the burden of proving that the basis for the NWCP is incorrect. The NWCP shall

be sufficiently detailed to provide fair notice to the contractor or subcontractor of the issues at the hearing. Within 45 days of the conclusion of the hearing, the director shall issue a written decision affirming, modifying, or dismissing the assessment. The decision of the director shall consist of a notice of findings, findings, and an order. This decision shall be served on all parties pursuant to Section 1013 of the Code of Civil Procedure by first-class mail at the last known address of the party on file with the LCP. Within 15 days of the issuance of the decision, the director may reconsider or modify the decision to correct an error, except that a clerical error may be corrected at any time.

The director has adopted regulations setting forth procedures for hearings under this subdivision.

The regulations are found as Attachment B to this document.

6. An affected contractor or subcontractor may obtain review of the decision of the director by filing a petition for a writ of mandate to the appropriate superior court pursuant to Section 1094.5 of the Code of Civil Procedure within 45 days after service of the decision. If no petition for a writ of mandate is filed within 45 days after service of the decision, the order shall become final. If it is claimed in a petition for writ of mandate that the findings are not supported by the evidence, abuse of discretion is established if the court determines that the findings are not supported by substantial evidence in the light of the whole record.

7. A certified copy of a final order may be filed by the Labor Commissioner in the office of the clerk of the superior court in any county in which the affected contractor or subcontractor has property or has or had a place of business. The clerk, immediately upon the filing, shall enter judgment for the state against the person assessed in the amount shown on the certified order.

8. A judgment entered pursuant to this procedure shall bear the same rate of interest and shall have the same effect as other judgments and shall be given the same preference allowed by law on other judgments rendered for claims for taxes. The clerk shall not charge for the service performed by him or her pursuant to this section.

9. This procedure shall provide the exclusive method for review of a decision by the LCP to withhold contract payments pursuant to Section 1771.5.

Note: A release under Civil Code section 3196 may not be posted for the release of funds being withheld for violations of the prevailing wage law.

C. Settlement Authority: Except in cases where the Labor Commissioner has intervened pursuant to 8 CCR section 16439 (b), the Labor Compliance Program shall have the authority to prosecute, settle, or seek the dismissal of any Notice of Withholding of Contract Payments issued pursuant to Labor Code Section 1771.6 and any review proceeding under Labor Code Section 1742, without any further need for approval by the Labor Commissioner. Whenever a Awarding Body Labor Compliance Program settles in whole or in part or seeks and obtains the dismissal of a Notice of Withholding of Contract Payments or a review proceeding under

Labor Code Section 1742, the Labor Compliance Program shall document the reasons for the settlement or request for dismissal and shall make that documentation available to the Labor Commissioner upon request.

The LCP, having an approved LCP, has a duty to the Director of the Department of Industrial Relations to enforce the requirements of Chapter 1 of Part 7 of Division 2 of the Labor Code and Chapter 8 of Division 1 of the CCR's in a manner consistent with the practice of the Labor Commissioner. and as set forth in Subchapter 4 of Chapter 8 of Division 1 of the CCR's. It is the practice of the Labor Commissioner to refer to the Director's ongoing advisory service of web-posted public works coverage determinations, as a source of information and guidance in making enforcement decisions. These are available at the Department of Industrial Relations Home Page (www.dir.ca.gov) and the Division of Labor Statistics and Research link.

§16439.Request for Review of a Labor Compliance Program Enforcement Action; Settlement Authority.

(a) A contractor or subcontractor may request a settlement meeting pursuant to Labor Code Section 1742.1(b) and may request review of a Labor Compliance Program enforcement action in accordance with Labor Code Sections 1771.6(b) and 1742 and the regulations found at sections 17201-17270 of Title 8 of the California Code of Regulations. The Labor Compliance Program shall have the rights and responsibilities of the Enforcing Agency (as defined in section 17202(f) of Title 8 of the California Code of Regulations), in responding to such a request for review, including but not limited to the obligations to serve notices, transmit the Request for Review to the hearing office, and provide an opportunity to review evidence in a timely manner, to participate through counsel in all hearing proceedings, and to meet the burden of establishing prima facie support for the Notice of Withholding of Contract Payments.

(b) If a contractor or subcontractor seeks review of a Labor Compliance Program enforcement action, the Labor Commissioner may intervene to represent the Awarding Body, or to enforce relevant provisions of the Labor Code consistent with the practice of the Labor Commissioner, or both.

(c) Except in cases where the Labor Commissioner has intervened pursuant to subpart (b) above, the Labor Compliance Program shall have the authority to prosecute, settle, or seek the dismissal of any Notice of Withholding of Contract Payments issued pursuant to Labor Code Section 1771.6 and any review proceeding under Labor Code Section 1742, without any further need for approval by the Labor Commissioner. Whenever a Labor Compliance Program settles in whole or in part or seeks and obtains the dismissal of a Notice of Withholding of Contract Payments or a review proceeding under Labor Code Section 1742, the Labor Compliance Program shall document the reasons for the settlement or request for dismissal and shall make that documentation available to the Labor Commissioner upon request.

The LCP shall undertake enforcement action in furtherance of its responsibilities as follows:

1. County of Inyo Department of Public Works, an approved LCP, has a duty to the Director of the Department of Industrial Relations to enforce Labor Code section 1720 *et seq.* and the procedural regulations of the Department of Industrial Relations in a manner consistent with the practice of DLSE and regulations found at Title 8, California Code Regulations, Section 16000 *et seq.*

2. If a contractor or subcontractor seeks review of a Labor Compliance Program enforcement action, pursuant to California Code of Regulations Section 16439 (b) and (c) the Labor Commissioner may intervene to represent the District, or to enforce relevant provisions of the Labor Code consistent with the practice of the Labor Commissioner, or both. Except in cases where the Labor Commissioner has intervened pursuant to subpart (b) above, the Labor Compliance Program shall have authority to prosecute, settle, or seek the dismissal of any Notice of Withholding of Contract Payments issued pursuant to Labor Code Section 1771.6 and any review proceeding under Labor Code Section 1742, without any further need for approval by the Labor Commissioner.
3. Pursuant to Labor Code Section 1742.1(b), in lieu of the payment of liquidated damages, a contractor may deposit an amount equal to back wages and penalties in an escrow account established and maintained by the Labor Commissioner.

B. Withholding Contract Payments When Payroll Records are Delinquent or Inadequate

1. "Withhold" means that LCP shall advise the Awarding Body to cease payments to the contractor. Where the violation is by a subcontractor, the contractor shall be notified of the nature of the violation and reference made to its rights under Labor Code Section 1729.

   A release bond under Civil Code Section 3196 may not be posted for the release of the funds being withheld for the violation of the prevailing wage law.

2. "Contracts" except as otherwise provided by agreement, means only contracts under a single master contract, or contracts entered into as stages of a single project which may be the subject of withholding, pursuant to the Labor Code, Sections 1720, 1720.2, 1720.3, 1720.4, 1771, and 1771.5;

3. "Delinquent payroll records" means those not submitted on the basis set forth in the LCP Contract and the LCP;

4. "Inadequate payroll records" are any one of the following:

   a. A record lacking the information required by Labor Code Section 1776;

   b. A record which contains the required information but which is not certified, or certified by someone not an agent of the contractor or subcontractor;

   c. A record remaining uncorrected for one payroll period, after the LCP has given the contractor notice of inaccuracies detected by audit or record review; provided, however, that prompt correction will stop any duty to withhold if such inaccuracies do not amount to 1 percent of the entire certified weekly payroll in dollar value and do not affect more

than half the persons listed as workers employed on that certified weekly payroll, as defined in Labor Code Section 1776 and Title 8 CCR Section 16401. Prompt correction will stop any duty to withhold if such inaccuracies are *de minimus*.

Pursuant to Labor Code Section 1776, the contractor shall, as a penalty to the Awarding Body, forfeit one hundred dollars ($100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated.

C. Withholding for Violation for Not Paying the Per Diem Prevailing Wages

1. "Amount equal to the underpayment" is the total of the following determined by payroll review, audit, or admission of the contractor or subcontractor:

   a. The difference between the amounts paid to workers and the correct General Prevailing Wage Rate of Per Diem Wages as defined in Title 8, CCR Section 16000, et seq.;

   b. The difference between the amounts paid to workers and the correct amounts of employer payments, as defined in Title 8 CCR Section 16000 *et seq.* and determined to be part of the prevailing rate costs of contractors due for employment of workers in such craft, classification, or trade in which they were employed and the amounts paid;

   c. Estimated amounts of "illegal taking of wages"; and

   d. Amounts of apprenticeship training contributions paid to neither the program sponsor's training trust nor the California Apprenticeship Council.

2. Provisions relating to the penalties under Labor Code Sections 1775, and 1813:

   a. Pursuant to Labor Code Section 1775, the contractor shall, as a penalty to the Awarding Body, forfeit up to two hundred dollars ($200) for each calendar day, or portion thereof, for each worker paid less than the prevailing wages.

   b. Pursuant to Labor Code section 1813, the contractor shall, as a penalty to the Awarding Body on whose behalf the contract is awarded, forfeit twenty-five dollars ($25) for each worker employed in the execution of the contract by the contractor or by any subcontractor for each calendar day during which such worker is required or permitted to work more than 8 hours in any one calendar day and 40 hours in any one calendar week.

D. Forfeitures Requiring Approval by the Labor Commissioner

1. "Forfeitures" are the amounts of unpaid penalties and wages assessed by the LCP for violations of the prevailing wage laws, whether collected by withholding from the contract amount, by suit under the contract, or both.

2. "Failing to pay the correct rate of prevailing wages" means those public works violations which the Labor Commissioner has exclusive authority to approve before they are recoverable by the Labor Compliance Program, and which are appealable by the contractor before the Director of the Department of Industrial Relations under Labor Code sections 1742 and 1742.1 pursuant to the California Code of Regulations Title 8, Chapter 8, Subchapter 8 (§§ 17201 through 17270).
   Regardless of what is defined as prevailing "wages in contract terms, noncompliance with the following are considered failures to pay prevailing wages:

a. Nonpayment of items defined as "Employer Payments" and "General Prevailing Rate of Per Diem Wages" in Title 8 CCR Section 16000 and Labor Code Section 1771.

b. Failure to provide complete and accurate payroll records, as required by Labor Code Section 1776;

c. Paying apprentice wages lower than the journey level rate to a worker who is not an apprentice as defined in Labor Code Section 3077, working under an apprentice agreement in a recognized program;

d. Accepting or extracting kickbacks, in violation of Labor Code Section 1778;

e. Engaging in prohibited actions related to fees for registration as a public works employee, in violation of Labor Code Section 1779;

f. Failure to pay overtime for work over 8 hours in any one day or 40 hours in any one week, in violation of Labor Code sections 1813, 1815, or Title 8 CCR section 16200(a)(3)(F).

E. Determination of Amount of Forfeiture by the Labor Commissioner

1. Where the LCO requests a determination of the amount of forfeiture, the request shall include a file or report to the Labor Commissioner which contains at least the following information:

a. The date that the public work was accepted, and the date that a notice of completion was filed;

b. Any other deadline which, if missed, would impede collection;

c. Evidence of violation in narrative form;

d. Evidence that an "audit" or "investigation" occurred in compliance with Title 8 CCR section 16432;

e. Evidence that the contractor was given the opportunity to explain why it believes there was no violation; or that any violation was caused by mistake, inadvertence, or neglect before the forfeiture was sent to the Labor Commissioner, and the contractor either did not do so or failed to convince the LCP of its position;

f. Where the LCP seeks not only amounts of wages but also a penalty as part of the forfeiture, and the contractor has unsuccessfully contended that the cause of violation was a mistake, inadvertence, or neglect, a statement should accompany the proposal for a forfeiture with a recommended penalty amount, pursuant to Labor Code Section 1775;

g. Where the LCP seeks only wages or a penalty less than $50 per day as part of the forfeiture, and the contractor has successfully contended that the cause of violation was a mistake, inadvertence, or neglect, then the file should include the evidence as to the contractor's knowledge of its obligation, including the Program's communication to the contractor of the obligation in the bid invitations, at the pre-job conference agenda and records, and any other notice given as part of the contracting process. Included with the

file should be a statement similar to that described in subsection (f) above and recommended penalty amounts, pursuant to Labor Code Section 1775;

h. The previous record of the contractor in meeting prevailing wage obligations.

2. The file or report shall be served on the Labor Commissioner not less than 30 days before the final payment or, if that deadline has passed, not less than 180 days following the filing of the notice of completion as long as funds remain in the contract.

3. A copy of the file or report shall be served on the contractor at the same time as it is sent to the Labor Commissioner.

   The LCP may exclude from the documents served on the contractor/subcontractor or surety copies of documents secured from these parties during an audit, investigation, or meeting if those documents are clearly referenced in the file or report.

4. The Labor Commissioner shall affirm, reject, or modify the forfeiture in whole or in part as to penalty and/or wages due.

5. The determination of the forfeiture by the Labor Commissioner is effective on the following date for Labor Compliance Programs having **initial approval** pursuant to Section 16426 of the California Code of Regulations: on the date the Labor Commissioner serves by first class mail on Public Agencies, School & Community College Districts and on the contractor, an endorsed copy of the proposed forfeiture, or a drafted forfeiture statement which sets out the amount of forfeiture approved. Service on the contractor is effective if made on the last address supplied by the contractor in the record.

   The Labor Commissioner's approval, modification, or disapproval of the proposed forfeiture shall be served within 30 days of receipt of the proposed forfeiture.

F. Deposits of Penalties and Forfeitures Withheld

1. Where the involvement of the Labor Commissioner has been limited to a determination of the actual amount of penalty, forfeiture, or underpayment of wages, and the matter has been resolved without litigation by or against the Labor Commissioner, the LCP on behalf of the Awarding Body shall deposit penalties and forfeitures into its General Fund.

2. Where collection of fines, penalties, or forfeitures results from court action to which the Labor Commissioner and Public Agencies, School & Community College Districts are both parties, the fines, penalties, or forfeitures shall be divided between the General Funds of the State and Public Agencies & Awarding Bodies, as the court may decide.

3. All amounts recovered by suit brought by the Labor Commissioner, and to which the LCP on behalf of the Awarding Body is not a party, shall be deposited in the General Fund of the State of California.

4. Pursuant to California Code of Regulations Section 16438(d) all wages and benefits which belong to a worker and are withheld or collected from a contractor or subcontractor, either by withholding or as a result of court action pursuant to Labor Code Section 1775, and which have not been paid to the worker or irrevocably committed on the worker's behalf to a benefits fund, shall be deposited with the Labor Commissioner, who will deal with such wages and benefits in accordance with Labor Code Section 96.7.

5. Pursuant to Labor Code Section 1742.1(b), in lieu of the payment of liquidated damages, a contractor may deposit an amount equal to back wages and penalties in an escrow account established and maintained by the Labor Commissioner.

G. Debarment Policy

1. It is the policy of the LCP that the public works prevailing wage requirements set forth in the California Labor Code, Section 1720-1861, be strictly enforced. In furtherance thereof, construction contractors and subcontractors found to be repeat violators of the California Labor Code shall be referred to the Labor Commissioner for debarment from bidding on or otherwise being awarded any public work contract, within the state of California, for the performance of construction and/or maintenance services for the period not to exceed three (3) years in duration. The duration of the debarment period shall depend upon the nature and severity of the labor code violations and any mitigating and/or aggravating factors, which may be presented at the hearing conducted by the Labor Commissioner for such purpose.

SECTION VII
NOTICE OF WITHHOLDING AND REVIEW THEREOF

A. Notice of Withholding of Contract Payments

After determination of the amount of forfeiture by the Labor Commissioner, the LCP shall provide notice of withholding of contract payments to the contractor and subcontractor, if applicable. The notice shall be in writing and shall describe the nature of the violation and the amount of wages, penalties, and forfeitures withheld. Service of the notice shall be completed pursuant to Section 1013 of the Code of Civil Procedure by first-class and certified mail to the contractor and subcontractor, if applicable. The notice shall advise the contractor and subcontractor, if applicable, of the procedure for obtaining review of the withholding of contract payments. The LCP shall also serve a copy of the notice by certified mail to any bonding company issuing a bond that secures the payment of wages covered by the notice and to any surety on a bond, if their identities are known to the LCP. **A copy of the Notice of Withholding of Contract Payments (NWCP) to be utilized by the LCP is found as Attachment D to this document.**

4. Review of NWCP

1. An affected contractor or subcontractor may obtain review of a NWCP under this chapter by transmitting a written request to the office of the LCP that appears on the NCWP within 60 days after service of the NWCP. If no hearing is requested within 60 days after service of the NWCP, the NWCP shall become final.

2. Within ten days following the receipt of the request for review, the LCP shall transmit to the Office of the Director-Legal Unit the request for review and copies of the Notice of Withholding of Contract Payments, any audit summary that accompanied the notice, and a proof of service or other documents showing the name and address of any bonding company or surety that secures the payment of the wages covered by the notice. **A copy of the required Notice of Transmittal to be utilized by the LCP is found as Attachment E to this document.**

3. Upon receipt of a timely request, a hearing shall be commenced within 90 days before the director, who shall appoint an impartial hearing officer possessing the qualifications of an administrative law judge pursuant to subdivision (b) of Section 11502 of the Government

Code. The appointed hearing officer shall be an employee of the department, but shall not be an employee of the Division of Labor Standards Enforcement. The contractor or subcontractor shall be provided an opportunity to review evidence to be utilized by the LCP at the hearing within 20 days of the receipt of the written request for a hearing. Any evidence obtained by the LCP subsequent to the 20-day cutoff shall be promptly disclosed to the contractor or subcontractor. **A copy of a Notice of Opportunity to Review Evidence Pursuant to Labor Code Section 1742(b) form is found as Attachment F to this document.**

Also find Labor Code Section 1742.1(b), which states that in lieu of the payment of liquidated damages, a contractor may deposit an amount equal to back wages and penalties in an escrow account established and maintained by the Labor Commissioner.

The contractor or subcontractor shall have the burden of proving that the basis for the NWCP is incorrect. The NWCP shall be sufficiently detailed to provide fair notice to the contractor or subcontractor of the issues at the hearing.

Within 45 days of the conclusion of the hearing, the director shall issue a written decision affirming, modifying, or dismissing the assessment. The decision of the director shall consist of a notice of findings, findings, and an order. This decision shall be served on all parties pursuant to Section 1013 of the Code of Civil Procedure by first-class mail at the last known address of the party on file with the LCP. Within 15 days of the issuance of the decision, the director may reconsider or modify the decision to correct an error, except that a clerical error may be corrected at any time.

The director has adopted regulations setting forth procedures for hearings under this subdivision. **The regulations are found as Attachment G to this document.**

4. An affected contractor or subcontractor may obtain review of the decision of the director by filing a petition for a writ of mandate to the appropriate superior court pursuant to Section 1094.5 of the Code of Civil Procedure within 45 days after service of the decision. If no petition for writ of mandate is filed within 45 days after service of the decision, the order shall become final. If it is claimed in a petition for writ of mandate that the findings are not supported by the evidence, abuse of discretion is established if the court determines that the findings are not supported by substantial evidence in the light of the whole record.

5. A certified copy of a final order may be filed by the Labor Commissioner in the office of the clerk of the superior court in any county in which the affected contractor or subcontractor has property or has or had a place of business. The clerk, immediately upon the filing, shall enter judgment for the state against the person assessed in the amount shown on the certified order.

6. A judgment entered pursuant to this procedure shall bear the same rate of interest and shall have the same effect as other judgments and shall be given the same preference allowed by law on other judgments rendered for claims for taxes. The clerk shall not charge for the service performed by him or her pursuant to this section.

7. This procedure shall provide the exclusive method for review of a NWCP by the LCP to withhold contract payments pursuant to Section 1771.8.

8. All records shall be retained for at least one year after acceptance of the project or five years after the cessation of all labor on the project that has not been accepted; or one year after a final decision or judgment in any litigation under Labor Code Section 1742 pursuant

to California Code of Regulations 16434(d). Written and/or electronic formats are acceptable for State or Federal court filing are required.

SECTION VIII
DISTRIBUTION OF FORFEITED SUMS

1. Before making payments to the contractor of money due under a contract for public work, the LCP on behalf of the Awarding Body shall withhold and retain there from all amounts required to satisfy the NWCP. The amounts required to satisfy the NWCP shall not be disbursed by the Awarding Body until receipt of a final order that is no longer subject to judicial review.

2. Pending a final order, or the expiration of the time period for seeking review of the notice of the withholding, the Awarding Body shall not disburse any contract payments withheld.

3. From the amount recovered, the wage claim shall be satisfied prior to the amount being applied to penalties. If insufficient money is recovered to pay each worker in full, the money shall be prorated among all workers employed on the public works project who are paid less than the prevailing wage rate shall have **PRIORITY** over all Stop Notices filed against the prime contractor.

4. Wages for workers who cannot be located shall be placed in the Industrial Relations Unpaid Fund and held in trust for the workers pursuant to Section 96.7. Penalties shall be paid into the General Fund of the Awarding Body that has enforced this chapter pursuant to Section 1771.8.

5. Where the involvement of the Labor Commissioner had been limited to a determination of the actual amount of penalty, forfeiture or underpayment of wages, and the matter ahs been resolved without litigation by or against the Labor Commissioner, the Labor Compliance Program shall deposit penalties and forfeitures into it's General fund. Furthermore all wages and benefits which belong to a worker and are withheld or collected from a contractor or subcontractor, either by withholding or as a result of administrative proceedings or any court action, and which have not been paid to the employee or irrevocably committed on the employee's behalf to a benefit fund, shall be deposited with the Labor Commissioner, who shall handle such wages and benefits in accordance with Labor Code Section 96.7

SECTION IX
OUTREACH ACTIVITIES

To ensure the successful implementation of the LCP's Labor Compliance Program, there shall be several outreach activities initiated and maintained.

A. Providing Information to the Public

The Labor Compliance Officer shall be responsible for communication and outreach activities relative to public information on the Labor Compliance Program:

1. Regular presentations to contractors at all County Job Walk Meetings (Pre-Bid conferences) and Pre Construction Meetings (Pre-Job conferences);

2. Ongoing communication via correspondence and with workers at County job sites when review of the certified payroll records reveals the possibility of prevailing wage violations.

3. Periodic meetings with contractor organizations, prime contractors and subcontractors interested in public works contracting with the LCP.

B. In-service Management Training on the Labor Compliance Program

The Labor Compliance Program shall provide ongoing management in-servicing and workshops for Facilities, Business, Accounting and legal staff relative to the terms, requirements and administration of the Labor Compliance Program.

Section X

Annual Reports

A. Annual Report on the LCP to the Director of the Department of Industrial Relations

(a) The Labor Compliance Program shall submit to the Director an annual report on its operation by no later than August 31 of each year. The annual report shall cover the twelve month period commencing on July 1 of the preceding calendar year and ending on June 30 of the year in which the report is due. For good cause, the Director may authorize a Labor Compliance Program to use a different reporting period and provide for the annual report to be due no later than 60 days following the close of that reporting period. For a Labor Compliance Program approved prior to July 1, 2009, the Director may require the filing of an interim or supplemental report to cover any gap between the reporting period prescribed under former subpart (d) of this section prior to August 1, 2010 and subpart (a).

(b) The annual report shall be made on the appropriate form [LCP-AR1], for the type of Labor Compliance Program that is submitting the report, unless the Director has agreed to a different reporting format for a Program that has been granted extended authority under section 16427 above. A third party Labor Compliance Program that contracted with more than one Awarding Body or Joint Powers Authority during the annual reporting period shall separately report on Labor Code Section 1771.5(b) enforcement activities for each Awarding Body or Joint Powers Authority covered by the report.

(c) The Annual Report for a person or entity operating a third party Labor Compliance Program shall also include (1) a certification of compliance with conflict of interest disclosure requirements by employees and consultants who participate in making governmental decisions, as defined under Title 2, California Code of Regulations, section 18701, and (2) a current statement disclosing the information required under section 16426(a)(2), (3) and (5) above.

(d) Information in the Annual Report shall be reported in sufficient detail to afford a basis for evaluating the scope and level of enforcement activity of the Labor Compliance Program. An annual report shall also include such additional information as the Labor Compliance Program may be required to report as a condition of its approval.

(e) A Labor Compliance Program that has ceased operating, either due to the voluntary termination of its program or the revocation of its approval by the Director, shall file a closing annual report within sixty (days) following its last day of operation as an approved program.

LCP-AR1

LABOR COMPLIANCE PROGRAM ANNUAL REPORT

Format for Awarding Body that enforces its own Labor Compliance Program for some but not all projects

Report for the reporting period _____ (mm/dd/yyyy) to _____ (mm/dd/yyyy)

1. Name of Labor Compliance Program (LCP) :	
2. LCP I.D. Number (assigned by DIR):	3. Date of Initial Approval:
4. Contact person (include name, title, address, telephone, fax, and e-mail, if available):	
5. Did LCP perform any LC § 1771.5 enforcement activities during the 12 months in the reporting period? Please check one: ☐ Yes If Yes, proceed to item 6 on the next page ☐ No If No, complete the information below, sign the form and submit to DIR, Office of the Director, Attn: LCP Special Assistant, 455 Golden Gate Avenue, 10th Floor, San Francisco CA 94102	
What suggestions do you have for the Department of Industrial Relations to better assist you with your program in the coming year? (attach additional sheets if necessary)	
SUBMITTED BY: _____ Signature _____ Name and Title _____ Date	

LCP-AR1

6. LC § 1771.5 enforcement activities (provide all information requested, attaching as many sheets as necessary).

A. List projects handled by LCP within the past 12 months.

Project Name	Bid Advertisement Date	Prime Contractor	Contract Amount
Total			

B. Summary of all wages and penalties assessed and/or recovered.

Project Name	Affected Contractor (who directly employed the worker)	Amount Assessed	Amount Recovered	Approval of Forfeiture Requested from Labor Commissioner?	Description of Violation
				☐ Yes ☐ No	
				☐ Yes ☐ No	
				☐ Yes ☐ No	
				☐ Yes ☐ No	
				☐ Yes ☐ No	
				☐ Yes ☐ No	
				☐ Yes ☐ No	
				☐ Yes ☐ No	
Total					

LCP-AR1

C. For any amount identified in item B for which approval of forfeiture not requested from the Labor Commissioner, please explain below.

Project Name	Amount Assessed	Amount Recovered	Explanation
Total			

D. For any amount identified in item B for which approval of forfeiture was requested from the Labor Commissioner, please provide the following:

Project Name	Amount Assessed					Amount Recovered				
	LC §1776(g)	LC § 1775	LC § 1813	Wages	Total	LC § 1776(g)	LC § 1775	LC § 1813	Wages	Total
Total										

E. Identify cases that are or were the subject of LC § 1742 proceedings.

Project Name	Contractor	Nature of Violation	ODL Case #	Current Status

F. Did you refer any contractor to the Labor Commissioner for debarment per LC § 1777.1?

Please check one: ☐ Yes ☐ No

If yes, identify affected contractor(s) or subcontractor(s) and date(s) of referral: _____

G. Did you refer any apprenticeship violation to the Division of Apprenticeship Standards (DAS)?

Please check one: ☐ Yes ☐ No

If yes, identify affected contractor(s) or subcontractor(s) and date(s) of referral: _____

COUNTY OF INYO DEPARTMENT OF PUBLIC WORKS
LABOR COMPLIANCE PROGRAM
ATTACHMENT A

CHECKLIST OF LABOR LAW REQUIREMENTS TO REVIEW AT JOB CONFERENCE MEETINGS

(Pursuant to Title 8, Section 16430 of the California Code of Regulations)

NAME (print) _____ Date _____

COMPANY _____ Phone _____

ADDRESS _____ Fax # _____

_____ School _____

SUPERINTENDENT _____ Project # _____

The federal and state labor law requirements applicable to the contract are composed of, but not limited to, the following:

1. **Payment of Prevailing Wage Rates**
   The contractor to whom the contract is awarded and its subcontractors hired for the public works project are required to pay not less than the specified general prevailing wage rates to all workers employed in the execution of the contract.

   The contractor is responsible for ascertaining and complying with all current general prevailing wage rates for crafts and any rate changes that occur during the life of the contract. Information on all prevailing wage rates and all rate changes are to be posted at the job site for all workers to view.

2. **Apprentices**
   It is the duty of the contractor and subcontractors to employ registered apprentices on the public works project under Labor Code Section 1777.5;

3. **Penalties**
   There are penalties required for contractor's/subcontractor's failure to pay prevailing wages and for failure to employ apprentices, including forfeitures and debarment under Labor Code Sections 1775; 1776; 1777.1; 1777.7 and 1813;

4. **Certified Payroll Reports**
   Under Labor Code Section 1776, contractors and subcontractors are required to keep accurate payroll records showing the name, address, social security number and work classification of each employee and owner performing work; also the straight time and overtime hours worked each day and each week, the fringe benefits, and, the actual per diem wage paid to each owner, journey person, apprentice worker or other employee hired in connection with the public works project.

Employee payroll records shall be certified and shall be made available for inspection at all reasonable hours at the principal office of the contractor/subcontractor, or shall be furnished to any employee, or his/her authorized representative on request, pursuant to Labor Code Section 1776;

Each contractor and subcontractor shall submit its weekly certified payroll reports to the LCP on a monthly basis. In the event that there has been no work performed during a given week, the Certified Payroll Report shall be annotated: "No work" for that week.

Under Labor Code Section 1776 (h) there are penalties required for contractor's/subcontractor's failure to maintain and submit copies of certified payroll records on request.

5. **Nondiscrimination in Employment**
There exist prohibitions against employment discrimination under Labor Code Sections 1735 and 1777.6, the Government Code, the Public Contracts Code, and Title VII of the Civil Rights Act of 1964;

6. **Kickbacks Prohibited**
Contractors and subcontractors are prohibited from recapturing wages illegally or extracting "kickbacks" from employee wages under Labor Code Section 1778;

7. **Acceptance of Fees Prohibited**
There exists a prohibition against contractor/subcontractor acceptance of fees for registering any person for public work under Labor Code Section 1779; or for filling work orders on public works contracts pursuant to Labor Code Section 1780;

8. **Listing of Subcontractors**
All prime contractors are required to list properly all subcontractors hired to perform work on the public works projects covering more than one-half of one percent, pursuant to Government Code Section 4100 et seq.;

9. **Proper Licensing**
Contractors are required to be licensed properly and to require that all subcontractors be properly licensed. Penalties are required for employing workers while unlicensed under Labor Code Section 1021 and under the California Contractor License Law found at Business and Professions Code Section 7000 et seq.

10. **Unfair Competition Prohibited**
Contractors/Subcontractors are prohibited from engaging in unfair competition as specified under Business and Professions Code Sections 17200 to 17208;

11. **Workers Compensation Insurance**
Labor Code Section 1861 requires that contractors and subcontractors be insured properly for Workers Compensation.

12. **OSHA**
Contractors and subcontractors are required to abide by the Occupational, Safety and Health laws and regulations that apply to the particular construction project.

13. **Undocumented Workers**
Federal law prohibits contractors and subcontractors from hiring undocumented workers and requires contractors and subcontractors to secure proof of eligibility/citizenship from all workers.

14. **Itemized Wage Statements**
Contractors and subcontractors are required to provide itemized wage statements to employees under Labor Code Section 226.

In accordance with federal and state laws and with Awarding Body contract documents, the undersigned prime contractor wishes to assure the Awarding Body that it intends to comply with the above-referenced labor law requirements, fully understanding that failure to comply with the above requirements may subject it to penalties as provided above.

For the Contractor:

_____
(Signature)

_____
(Date)

_____
Prime Contractor

_____
Project Name

For the Awarding Body:

_____
(Signature)

_____
(Date)

ATTACHMENT B

Audit Record Worksheets [8 Cal. Code Reg. §16432]

Labor Compliance Program Regulations

- Public Works Investigation Worksheet Page 48
- Public Works Audit Worksheet Page 49
- Prevailing Wage Determination Summary Page 50

DEPT. OF INDUSTRIAL RELATIONS - DIVISION OF LABOR STANDARDS ENFORCEMENT

PUBLIC WORKS INVESTIGATION WORKSHEET

EMPLOYEE'S NAME	SOCIAL SECURITY NUMBER	DEPUTY	OFFICE	DATE	Employer	Case Number

Classification Code	PERIOD ENDING YEAR wk end		HOURS OF WORK -Thu DATE	-Wed DATE	-Tue DATE	-Mon DATE	-Sun DATE	-Sat DATE	Fri DATE	TOTAL DAYS WORK-ED	TOTAL HOURS WORKED ST,OT,DT	ACTUAL RATE ST OT DT	OTHER COMPEN-SATION	TOTAL WAGES PAID	Required Wage Rates St,Ot,Dt	OTHER COMPEN-SATION	TOTAL WAGES REQUIRED	AMOUNT DUE AND OWING	No. of Violations	PENAL-TIES 1775__	No. of Violations	PENAL-TIES 1813__	TOTAL TRAINING FUND	Amount Due and Owing
		ST																					Rate	
		OT																						
		DT																						
		ST																					Rate	
		OT																						
		DT																						
		ST																					Rate	
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		OT																						
		DT																						
		ST																					Rate	
		OT																						
		DT																						

ST hours worked
OT hours worked
DT hours worked

TOTALS

Page No. __

PUBLIC WORKS AUDIT WORKSHEET

EMPLOYER / FIRM	DEPUTY OFFICE	TOTAL AMOUNT DUE/OWING
ADDRESS CITY	TRANSCRIBER	WAGES DUE AND OWING
PROJECT AWARDING BODY PRIME	AUDIT NUMBER/CASE NUMBER	PENALTIES DUE AND OWING
		TRAINING FUND DUE/OWING

EMPLOYEE	CLASSIFICATION	PERIOD WORKED	HOURS WORKED ST.	OT.	D.T.	OTHER WAGES PAID	TOTAL WAGES PAID	PREVAILING WAGE REQUIREMENTS *OTHER	TOTAL WAGES	AMOUNT OWING AND UNPAID	PENALTIES NO.1	PENALTIES NO. 2	TRNG. FUND	TOTAL AMOUNT DUE

The following entries represent the amounts relied upon for calculating Labor Code 1775 and 1813 penalties.

1775		Per Day
1813		Per Day

PREVAILING WAGE DETERMINATION SUMMARY

CODE NO.	CLASSIFICATION	Effective Date	HOURLY RATE	Contributions	TRAINING	TIME 1/2	HOLIDAY / SUNDAY	TRAVEL & SUBSISTENCE	Other hourly Requirements
1									
2									
3									
4									
5									
6									
7									
8									
9									
10									
11									
12									

WAGE DETERMINATION INFORMATION

CODE NO.	CLASSIFICATION	WAGE DETERMINATION NO.
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		

COUNTY OF INYO DEPARTMENT OF PUBLIC WORKS
LABOR COMPLIANCE PROGRAM
AUDIT RECORD FORM
(For Use with CCR Section 16432 Audits)

An audit record is sufficiently detailed to "verify compliance with the requirements of Chapter 1, Public Works, Part 7 of Division 2," when the audit record displays that the following procedures have been followed:

1. Audit of the obligation to carry workers' compensation insurance means producing written evidence of a binder issued by the carrier, or telephone or written inquiry to the Workers' Compensation Insurance Rating Bureau;

2. Audit of the obligation to employ and train apprentices means inquiry to the program sponsor for the apprenticeable craft or trade in the area of the public work as to: whether contract award information was received, including an estimate of journeyperson hours to be performed and the number of apprentices to be employed; whether apprentices have been requested, and whether the request has been met; whether the program sponsor knows of any amounts received from the contractor or subcontractor for the training fund or the California Apprenticeship Council; and whether persons listed on the certified payroll in that craft or trade being paid less than the journeyperson rate are apprentices registered with that program and working under apprentice agreements approved by the Division of Apprenticeship Standards;

3. Audit of the obligation to pass through amounts, made part of the bid, for apprenticeship training contributions to either the training trust or the California Apprenticeship Council, means asking for copies of checks remitted, or when the audit occurs more than 30 days after the month in which payroll has been paid, copies of canceled checks remitted;

4. Audit of "illegal taking of wages" means inspection of written authorizations for deductions (as listed in Labor Code Section 224) in the contractor's files and comparison to wage deduction statements furnished to employees (Labor Code Section 226), together with an interview of several employees as to any payments made which are not reflected on the wage deduction statements;

5. Audit of the obligation to keep records of working hours (Title 8 CCR Section 16432), and pay not less than required for hours worked in excess of 8 hours/day and 40 hours/week (Title 8 CCR Section 16200(a)(3)(F), means review and audit of weekly certified payroll records;

6. Audit of the obligation to pay the prevailing per diem wage means review and audit of weekly-certified payroll records for compliance with:

   a. All elements defined as the General Prevailing Rate of Per Diem Wages in Title 8 CCR Section 16000, which were determined to be prevailing in the Director's determination in effect on the date of the call for bids, or as reflected in any subsequent revised determination issued by the Director's office, copies of which are available at the LCO's Office and posted at the public works job site;

   b. All elements defined as Employer Payments to Workers set forth in Title 8 CCR Section 16000, which were determined to be prevailing in the
   Director's determination in effect on the date of the call for bids, or as reflected in any subsequent revised determination issued by the Director's office, copies of which are available at the LCO's Office and posted at the public works job site.

Labor Compliance Program _____ _____ _____ _____ Phone: Fax:	(SEAL)
Date:	In Reply Refer to Case No.:

Notice of Withholding of Contract Payments

Awarding Body	Work Performed in County of
Project Name	Project No.
Prime Contractor	
Subcontractor	

After an investigation concerning the payment of wages to workers employed in the execution of the contract for the above-named public works project, the Labor Compliance Program for _____ _____ (A Labor Compliance Program) has determined that violations of the California Labor Code have been committed by the contractor and/or subcontractor identified above. In accordance with Labor Code sections 1771.5 and 1771.6, the Labor Compliance Program hereby issues this Notice of Withholding of Contract Payments.

The nature of the violations of the Labor Code and the basis for the assessment are as follows:

_____
_____
_____
_____

The Labor Compliance Program has determined that the total amount of wages due is: $_____

The Labor Compliance Program has determined that the total amount of penalties assessed under Labor Code sections 1775 and 1813 is: $_____

The Labor Compliance Program has determined that the amount of penalties assessed under Labor Code section 1776 is: $_____

LABOR COMPLIANCE PROGRAM

_____

By:_____

Notice of Right to Obtain Review - Formal Hearing

In accordance with Labor Code sections 1742 and 1771.6, an affected contractor or subcontractor may obtain review of this Notice of Withholding of Contract Payments by transmitting a written request to the office of the Labor Compliance Program that appears below within 60 days after service of the notice. **To obtain a hearing, a written Request for Review must be transmitted to the following address:**

A **Request for Review** either shall clearly identify the Notice of Withholding of Contract Payments from which review is sought, including the date of the notice, or it shall include a copy of the notice as an attachment, and shall also set forth the basis upon which the notice is being contested. In accordance with Labor Code section 1742, the contractor or subcontractor shall be provided an opportunity to review evidence to be utilized by the Labor Compliance Program at the hearing within 20 days of the Labor Compliance Program's receipt of the written **Request for Review**.

> **Failure by a contractor or subcontractor to submit a timely Request for Review will result in a final order which shall be binding on the contractor and subcontractor, and which shall also be binding, with respect to the amount due, on a bonding company issuing a bond that secures the payment of wages and a surety on a bond. Labor Code section 1743.**

In accordance with Labor Code section 1742(d), a certified copy of a final order may be filed by the Labor Commissioner in the office of the clerk of the superior court in any county in which the affected contractor or subcontractor has property or has or had a place of business. The clerk, immediately upon the filing, shall enter judgment for the State against the person assessed in the amount shown on the certified order.

Opportunity for Settlement Meeting

In accordance with Labor Code Section 1742.1 (b), the Labor Compliance Program shall, upon receipt of a request from the affected contractor or subcontractor within 30 days following the service of this Notice of Withholding of Contract Payments, afford the contractor or subcontractor the opportunity to meet with the Labor Compliance Program's designee **to attempt to settle a dispute regarding the notice**. The settlement meeting may be held in person or by telephone and shall take place before the expiration of the 60-day period for seeking a hearing as set forth above under the heading Notice of Right to Obtain Review. No evidence of anything said or any admission made for the purpose of, in the course of, or pursuant to, the settlement meeting is admissible or subject to discovery in any administrative or civil proceeding. No writing prepared for the purpose of, in the course of, or pursuant to, the settlement meeting, other than a final settlement agreement, is admissible or subject to discovery in any administrative or civil proceeding. This opportunity to timely request an informal settlement meeting is **in addition** to the right to obtain a formal hearing, and a settlement meeting may be requested even if a written **Request for Review** has already been made. Requesting a settlement meeting, however, does not extend the 60-day period during which a formal hearing may be requested.

A written request to meet with the Labor Compliance Program's designee to attempt to settle a dispute regarding this notice must be transmitted to _____ at the following address:

_____

_____

_____

Liquidated Damages

In accordance with Labor Code section 1742.1, after 60 days following the service of this Notice of Withholding of Contract Payments, the affected contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the notice shall be liable for liquidated damages in an amount equal to the wages, or portion thereof that still remain unpaid. If the notice subsequently is overturned or modified after administrative or judicial review, liquidated damages shall be payable only on the wages found to be due and unpaid. If the contractor or subcontractor demonstrates to the satisfaction of the Director of the Department of Industrial Relations that he or she had substantial grounds for believing the assessment or notice to be an error, the Director shall waive payment of the liquidated damages.

The Amount of Liquidated Damages Available Under this Notice is $_____.

[Name and Contact Information for person issuing Notice]	

Distribution:

Prime Contractor
Subcontractor
Surety(s) on Bond

Attach:

Audit Summary
Proof of Service

COPIES OF THIS REQUEST, INCLUDING ALL ATTACHMENTS, SHALL BE SERVED ON THE AFFECTED CONTRACTOR AND AFFECTED SUBCONTRACTOR AT THE SAME TIME THAT IT IS SENT TO THE DIVISION OF LABOR STANDARDS ENFORCEMENT.

Date:	Case or Contract No.:

ATTACHMENT D

NOTICE OF TEMPORARY WITHHOLDING OF CONTRACT PAYMENTS DUE TO DELINQUENT OR INADEQUATE PAYROLL RECORDS (8 CCR §16435)

Awarding Body:	Work performed in County of:
Project Name and Number (if any):	
Prime Contractor:	
Subcontractor:	

Pursuant to Labor Code §1771.5(b)(5) and 8 CCR §16435, contract payments are being withheld due to delinquent or inadequate payroll records.

Contractor or subcontractor whose payroll records are delinquent or inadequate:

_____

_____

_____

☐ The following payroll records are delinquent (specify weeks and due dates):

_____

_____

_____

_____

_____

☐ The following payroll records are inadequate (specify weeks and ways in which records are deemed inadequate under 8 CCR §16435(d)):

_____

_____

_____

Estimated amount of contract payments due to contractor or subcontractor that are being withheld pursuant to this Notice:

_____

See page 2 for additional information, including appeal rights.

_____

Labor Compliance Officer

Prime Contractor Obligations: If contract payments are being withheld due to the delinquency or inadequacy of your subcontractor's payroll records, you are required to cease all payments to that subcontractor until the Labor Compliance Program provides notice that the subcontractor has cured the delinquency or deficiency.

Notice of Right to Obtain Review – Expedited Hearing

An affected contractor or subcontractor may request review an expedited hearing to review this Notice of Withholding of Contract Payments under Labor Code §1742. *The only issue in any such review proceeding is whether the specified payroll records are in fact delinquent or inadequate within the meaning of 8 CCR §16435 or whether the Labor Compliance Program has exceeded its authority under 8 CCR §16435.* **To obtain an expedited hearing, a written request must be transmitted to the both the Labor Compliance Program and to the Lead Hearing Officer for the Director of the Department of Industrial Relations, as follows:**

[Name of Labor Compliance Officer,
address, and fax number]

Office of the Director – Legal Unit
Attention: Lead Hearing Officer
Expedited Hearing Request
Fax to: (415) 703-4277

The request for expedited hearing should specify the basis for challenging this Notice and include a copy of this Notice as an attachment. The request should also identify and provide contact information for the person who will represent the contractor or subcontractor at the hearing.

Important Additional Information: This is a Notice of Temporary Withholding of Contract Payments for Delinquent or Inadequate Payroll Records *only*. This is *not* a determination of liability for wages or penalties under Labor Code §§1775 and 1776 or any other statute. *Contract payments cannot continue to be withheld pursuant to this notice, once the required records have been produced.* However, the contractor and subcontractor may still be subject to the assessment of back wages and penalties and the withholding of contract payments if, upon investigation, a determination is made that the contractor or subcontractor violated the public works requirements of the Labor Code.

This Notice only addresses rights and responsibilities under state law. Awarding bodies, labor compliance programs, and contractors may have other rights or responsibilities under federal or local law, where applicable, and may also have additional rights or remedies under the public works contract.

ATTACHMENT E

LABOR COMPLIANCE PROGRAM _____ Review Office - Notice of Withholding of Contract Payments _____ _____ _____ Phone: Fax:	(SEAL)
Date:	In Reply Refer to Case No.:

Notice of Opportunity to Review Evidence Pursuant to Labor Code Section 1742(b)

To: Prime Contractor

_____
_____
_____

Subcontractor

_____
_____
_____

Please be advised that this office has received your **Request for Review**, dated _____, and pertaining to the Notice of Withholding of Contract Payments issued by the Labor Compliance Program in Case No. _____.

In accordance with Labor Code section 1742(b), this notice provides you with an opportunity to review evidence to be utilized by the Labor Compliance Program at the hearing on the Request for Review, and the procedures for reviewing such evidence.

Rule 17224 of the Prevailing Wage Hearing Regulations provides as follows:

> A(a) Within ten (10) days following its receipt of a Request for Review, the Enforcing Agency shall also notify the affected contractor or subcontractor of its opportunity and the procedures for reviewing evidence to be utilized by the Enforcing Agency at the hearing of the Request for Review.
>
> (b) An Enforcing Agency shall be deemed to have provided the opportunity to review evidence required by this Rule if it (1) gives the affected contractor or subcontractor the option at said party's own expense to either (i) obtain copies of all such evidence through a commercial copying service or (ii) inspect and copy such evidence at the office of the Enforcing Agency during normal business hours; or if (2) the Enforcing Agency at its own expense forwards copies of all such evidence to the affected contractor or subcontractor.
> (c) The evidence required to be provided under this Rule shall include the identity of witnesses whose testimony the Enforcing Agency intends to present, either in person at the hearing or by declaration or affidavit. This provision shall not be construed as requiring the Enforcing Agency to prepare or provide any separate listing of witnesses whose identities are disclosed within the written materials made available under subpart (a).

(d) The Enforcing Agency shall make evidence available for review as specified in subparts (a) through (c) within 20 days of its receipt of the Request for Review; *provided that*, this deadline may be extended by written request or agreement of the affected contractor or subcontractor. The Enforcing Agency's failure to make evidence available for review as required by Labor Code section 1742(b) and this Rule, shall preclude the enforcing agency from introducing such evidence in proceedings before the Hearing officer or the Director.

(e) This Rule shall not preclude the Enforcing Agency from relying upon or presenting any evidence first obtained after the initial disclosure of evidence under subparts (a) through (d), *provided that*, such evidence is promptly disclosed to the affected contractor or subcontractor. This Rule also shall not preclude the Enforcing Agency from presenting previously undisclosed evidence to rebut new or collateral claims raised by another party in the proceeding.

In accordance with the above Rule, please be advised that the Labor Compliance Program's procedure for you to exercise your opportunity to review evidence is as follows:

Within five calendar days of the date of this notice, please transmit the attached Request to Review Evidence to the following address:

_____
_____
_____
_____
_____
Attention:_____

ATTACHMENT F

Request to Review Evidence

To: _____
_____
_____
_____

From: _____
_____
_____
_____

Regarding Notice of Withholding of Contract Payments Dated
_____

Our Case No.: _____

The undersigned hereby requests an opportunity to review evidence to be utilized by the Labor Compliance Program at the hearing on the Request for Review.

_____
Phone No.: _____
Fax No.: _____

ATTACHMENT G

LABOR COMPLIANCE PROGRAM _____ Review Office - Notice of Withholding of Contract Payments _____ _____ _____ Phone: Fax:	(SEAL)
Date:	In Reply Refer to Case No.:

Notice of Transmittal

To: Department of Industrial Relations
Office of the Director-Legal Unit
Attention: Lead Hearing Officer
P. O. Box 420603
San Francisco, CA 94142-0603

Enclosed herewith please find a Request for Review, dated _____, postmarked _____, and received by this office on _____.

Also enclosed please find the following:

____ Copy of Notice of Withholding of Contract Payments
____ Copy of Audit Summary

LABOR COMPLIANCE PROGRAM

_____

By:_____

cc: Prime Contractor
Subcontractor
Bonding Company

Please be advised that the Request for Review identified above has been received and transmitted to the address indicated. Please be further advised that the governing procedures applicable to these hearings are set forth at Title 8, California Code of Regulations sections 17201-17270. These hearings are **not** governed by Chapter 5 of the Government Code, commencing with section 11500.

ATTACHMENT H

Section III

COUNTY OF INYO DEPARTMENT OF PUBLIC WORKS

LABOR COMPLIANCE PROGRAM OFFICE

Implementation Plan

Section III

IMPLEMENTATION PLAN

- Labor Compliance Officer receives construction contract awards/work schedules from the Awarding Agency.
- Labor Compliance Officer participates in Pre Constriction meeting.
- Labor Compliance Officer provides site monitors with work schedules. All active sites are monitored weekly
- Site monitors, both County employees and others, conduct interviews and return interview sheets to Labor Compliance Officer.
- Labor Compliance Officer enters information from interviews into database.
- Labor Compliance Officer verifies information from certified payroll records.
- Labor Compliance Officer notifies contractor in writing of any discrepancies with certified payroll records.
- If clarification/correction is not received from the contractor within two weeks, Labor Compliance Officer will commence an investigation.
- Upon completion of the investigation, a report will be sent to the Department of Industrial Relations with recommendations for penalties to be applied to the contractor.
- Labor Compliance Officer prepares and submits public works violation reports to Labor Commissioner as required.
- Labor Compliance Officer communicates on a regular basis with contractors, workers, building and trade organizations, and other community entities and in-service management to County personnel.
- Labor Compliance Officer prepares and submits annual reports to the Director of the Department of Industrial Relations.
- Labor Compliance Officer manages all facets and is the primary contact for the Awarding Body's Labor Compliance Program.
- Labor Compliance Officer provides site monitors and staff with site visitation training and assigns projects when applicable.

ATTACHMENT I

Section IV

COUNTY OF INYO DEPARTMENT OF PUBIC WORKS

LABOR COMPLIANCE PROGRAM OFFICE

Operations Manual

SECTION IV

OPERATIONS MANUAL

Site Visitations

1. Safety is the paramount factor for any site visit to any County construction projects. Do not enter any area that appears unsafe. Site monitor is expected to exercise reasonable caution at all times.

2. All authorized personnel visiting any County construction site are required to be properly identified as a County representative by wearing visible picture Identification (badge), or identifying themselves as such. Additionally, all authorized personnel are required to wear hard hats and safety shoes.

3. Authorized personnel shall visit all sites on a non-interference basis and take a minimum amount of the workers' time for interview purposes.

4. Upon arrival at a site, the site monitor will check in at the site Superintendent's (contractor's) trailer prior to any interviewing. In the event there is not a construction trailer, you will check in at the site's administrative office. Identify yourself and state the purpose of the visit. Sign in if required to do so. If the site Superintendent cites some reason that denies access to the site, promptly and politely remove yourself. Make a note of this occurrence and include in your report to the LCO.

5. Check to see that the following are displayed in the contractor's trailer:
   - Notice LCP with Contact Information for Workers
   - Prevailing Wage Determination posted
   - Sign-in sheets, were applicable

   If any of these items are not readily visible, either replace and/or remind contractor that the postings are part of the code of regulations and labor code requirements. On subsequent visits, make sure that these items are posted, or the contractor will be found to be in noncompliance.

6. There will be times when the site Superintendent is somewhere on the site and/or there is no contractor present in the trailer. You should check in at the Awarding Body's Inspector of Record (IOR) trailer. The IOR will also be able to tell you which contractors are on the site at that time. If all trailers are empty or locked, try to locate the site superintendent or IOR on the site prior to commencing interviewing.

Interviewing

1. Once you have checked in with the site superintendent and obtain access to the site, try to locate tradespersons working in clusters. For instance, several painters, electricians, roofers, etc. working in one area. Approach the workers individually in a non-threatening, professional manner. Identify yourself, indicate that you are a County representative, and that you need only a few seconds of their time to ask some very generic questions to ensure that they are receiving the proper rate of pay for the type of work they are doing. Again, do not endanger yours or any tradesperson's safety in conducting these interviews. Do not insist that someone on a scaffold 40 feet in the air come down for an interview. Do not ask anyone to form a line until you can get to them; allow them to continue working until you can get to them individually.
   These interviews are random; two or three tradespersons for each subcontractor are more than sufficient for one visit. Any persons missed are usually picked up on the

next visit. If only one tradesperson is at the site, then interview that person if possible. If you are told that the rest of the crew will be there in an hour, do not wait, unless your total site interviewing will take that length of time. Thirty minutes of interviewing per site is typically sufficient, depending upon the site size and/or number of subcontractors present. Contractor tradesperson should also be interviewed.

2. Using the Labor Compliance Site Visitation Interview form, ask each person the following: name, social security number, employer, title (trade), rate of pay, and task being performed at the time of interview.

3. Should someone decline to speak with you, respect those wishes. If someone asks if this is union-related, tell them no. County works with both open and closed shop trades.

4. If you try to interview someone who does not speak English and you cannot communicate in the appropriate language, try to locate a coworker who can interpret for you. If you find an entire crew unable to speak English and no interpreter, include this in your report to the LCO.

5. If someone refuses to disclose his social security number to you, respect those wishes. However, assure that person that all information given is kept strictly confidential.

6. If someone does not know their rate of pay (most tradespersons know), ask for a guesstimate. If the response is, "whatever prevailing wage is", so indicate on the form.

7. If someone indicates that he is an apprentice, make sure that you ask him what period. These can be anywhere from 1st to 10th. If he's not sure, ask him how many years he's been apprenticed in the specific trade and/or to guesstimate and so indicate on the interview form.

8. ALWAYS thank them for their time.

9. Keep in mind that you are there to collect information only, do not tell them how to do their jobs. Should you witness what you consider a potentially unsafe or unwarranted condition, you are to contact the site inspector or job superintendent of your findings immediately and make a note on your site visitation log of what you observed. Upon your return to the office, report your findings to the LCO.

Reporting

1. All original interview forms shall be submitted to the LCO no later than the end of each workweek.

ATTACHMENT J

Section V

COUNTY OF INYO DEPARTMENT OF PUBLIC WORKS
LABOR COMPLIANCE PROGRAM OFFICE

Procedures

PROCEDURES

Certified Payroll Verification Procedures

1. The County of Inyo representative will provide the Labor Compliance Officer with construction work schedules.

2. Upon receipt of certified payroll reports from general/subcontractors once a week, compare information from the Labor Compliance visitation log to the contractors certified payroll and the prevailing wage schedule.

3. Compare name and social security number with trade classification listed.

4. Ensure prevailing wage listed is correct for the classification listed using the prevailing wage schedule

5. Check for employment of apprentices, correct rate of pay, and proper ratio to journey workers.

6. Contact the contractor in writing and send by certified mail any inaccuracies in the verification of its certified payroll.

7. If clarification/correction is not received within two weeks form the contractor, the Labor Compliance Officer will commence an investigation.

8. Upon completion of the investigation, a report will be sent to the Department of Industrial Relations with recommendations for penalties to be applied to the contractor.

9. Retain all original interview forms and annotate the database as applicable.

Site Monitor Procedures

1. Receive construction site work schedule from Labor Compliance Officer.

2. Monitor active projects weekly.

3. Check in with site administrative office/site superintendent

4. Utilizing the Labor Compliance Site Visitation Interview form, conduct interviews with workers.

5. Note on your form any infractions you may observe while conducting the interview.

6. Return interview form to the Labor Compliance Officer.

7. Report any infractions you observed to the Labor Compliance Officer.

ATTACHMENT K

Section VI

COUNTY OF INYO DEPARTMENT OF PUBLIC WORKS

LABOR COMPLIANCE PROGRAM

Forms

- LCP PREVAILING WAGE CONTRACTOR HANDOUT..... Page 69
- SUGGESTED SINGLE PROJECT LABOR COIMPLIANCE REVIEW AND ENFORCEMENT REPORT FORM ..... Page 74
- SUGGESTED CHECKLIST OF LABOR LAW REQUIREMENTS TO REVIEW AT PREJOB CONFERENCE, Section 16421...Page 78
- CHECKLIST OF LABOR LAW REQUIREMENTS TO REVIEW AT JOB CONFERENCE MEETINGS..... Page 80
- APPRENTICES ON PUBLIC WORKS - SUMMARY OF REQUIREMENTS..... Page 83
- PUBLIC WORKS CONTRACT AWARD INFORMATION..... Page 85
- TRAINING FUND CONTRIBUTIONS..... Page 86
- CONTRACTOR FRINGE BENEFIT STATEMENT..... Page 87
- PUBLIC WORKS WEEKLY CERTIFIED PAYROLL REPORTING.... Page 88
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- SAMPLE - GENERAL PREVAILING WAGE DETERMINATION..... Page 90
- LABOR COMPLIANCE SITE VISITATION INTERVIEW FORM..... Page 91
- SITE VISITATION LOG..... Page 92
- SAMPLE PREAWARD LETTER..... Page 93
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- SAMPLE FIRST REQUEST FOR CERTIFIED PAYROLL..... Page 95
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COUNTY OF INYO DEPARTMENT OF PUBLIC WORKS

LABOR COMPLIANCE PROGRAM PREVAILING WAGE HANDOUT

THE PUBLIC WORKS REQUIREMENTS ARE:

(A) the appropriate number of apprentices are on the job site, as set forth in Labor Code Section 1777.5.
(B) worker's compensation coverage, as set forth in Labor Code Sections 1860 and 1861.
(C) keep accurate records of the work performed on the public works project, as set forth in Labor Code Section 1812.
(D) inspection of payroll records pursuant to Labor Code Section 1776, and as set forth in 8 CCR Section 16400(e).
(E) other requirements imposed by law.
(5) Withhold monies. See Labor Code Section 1727.
(6) Ensure that public works projects are not split or separated into smaller work orders or projects for the purpose of evading the applicable provisions of Labor Code Section 1771.
(7) Deny the right to bid on public work contracts to contractors or subcontractors who have violated public work laws, as set forth in Labor Code Section 1777.7.
(8) Not permit workers on public works to work more than eight hours a day or 40 hours in any one calendar week, unless compensated at not less than time and a half as set forth in Labor Code Section 1815.
Exception: If the prevailing wage determination requires a higher rate of pay for overtime work than is required under Labor Code Section 1815, then that higher overtime rate must be paid [,as specified in 16200(a)(3)(F).]
(9) Not take or receive any portion of the workers' wages or accept a fee in connection with a public works project, as set forth in Labor Code Sections 1778 and 1779.
(10) Comply with those requirements as specified in Labor Code Sections 1776(g), 1777.5, 1810, 1813, and 1860.

THE CONTRACTOR AND SUBCONTRACTOR SHALL:

(1) Pay not less than the prevailing wage to all workers, as defined in CCR's section 16000(a), and as set forth in Labor Code Sections 1771 and 1774;
(2) Comply with the provisions of Labor Code Sections 1773.5, 1775, and 1777.5 regarding public works job sites;
(3) Provide workers' compensation coverage as set forth in Labor Code Section 1861;
(4) Comply with Labor Code Sections 1778 and 1779 regarding receiving a portion of wages or acceptance of a fee;
(5) Maintain and make available for inspection payroll records, as set forth in Labor Code Section 1776;
(6) Pay workers overtime pay, as set forth in Labor Code Section 1815 or as provided in the collective bargaining agreement adopted by the Director as set forth in 8 CCR Section 16200(a)(3); and
(7) Comply with Section 16101 of these regulations regarding discrimination.
(8) Be subject to provisions of Labor Code Section 1777.7 which specifies the penalties imposed on a contractor who willfully fails to comply with provisions of Section 1777.5.
(9) Comply with those requirements as specified in Labor Code Sections 1810 and 1813.
(10) Comply with other requirements imposed by law.

APPRENTICE TRAINING

SEE LABOR CODE SECTION 1777.5

(e) Prior to commencing work on a contract for public works, every contractor shall submit contract award information to an applicable apprenticeship program **that can supply apprentices to the site of the public work**. The information submitted shall include an estimate of journeyman hours to be performed under the contract, the number of apprentices proposed to be employed, and the approximate dates the apprentices would be employed. A copy of this information shall also be submitted to the LCP if requested.

Within 60 days after concluding work on the contract, each contractor and subcontractor shall submit to the LCP, if requested, and to the apprenticeship program a verified statement of the journeyman and apprentice hours performed on the contract. The information under this subdivision shall be public. The apprenticeship programs shall retain this information for 12 months.

APPRENTICE TRAINING CONTIBUTION REQUIREMENTS

SEE CALIFORNIA CODE OF REGULATIONS: TITLE 8, ARTICLE 4,

16200(G) **Wage rates, training contributions and apprenticeship contributions.**

Apprenticeship rates shall be determined by the Director of Industrial Relations using apprentice wage standards set forth in the collective bargaining agreement and/or approved by the California Apprenticeship Council. A contractor or subcontractor on a public works contract must pay training fund contributions or apprenticeship contributions in one of the following manners:

1. into the appropriate craft apprenticeship program in the area of the site of the public work; or
2. (if the trust fund is unable to accept such contributions) an equivalent amount shall be paid to the California Apprenticeship Council (CAC) administered by DAS.
3. If neither of the above will accept the funds, cash pay shall be as provided for in CCR's section 16200(a)(3)(I).

SEE CALIFORNIA CODE OF REGULATIONS: TITLE 8, ARTICLE 10, and SECTION 230.2

§230.2. **Payment of Apprenticeship Training Contributions to the Council.**

(a) Contractors who are neither required nor wish to make apprenticeship training contributions to the applicable local training trust fund shall make their training contributions to the Council. Contractors may refer to the Director of the Department of Industrial Relations applicable prevailing wage determination for the amount owed for each hour of work performed by journeymen and apprentices in each apprenticeable occupation.

(b) Training contributions to the Council are due and payable on the 15th day of each month for work performed during the preceding month.

(c) Training contributions to the Council shall be paid by check and shall be accompanied by a completed CAC-2 Form, Training Fund Contributions, (Rev. 10/91), or the following information:

(1) The name, address, and telephone number of the contractor making the contribution.
(2) The contractor's license number.
(3) The name and address of the public agency that awarded the contract.
(4) The jobsite location, including the county where the work was performed.
(5) The contract or project number.
(6) The time period covered by the enclosed contributions.
(7) The contribution rate and total hours worked by apprenticeable occupation.

CERTIFYING PERSON

SEE CALIFORNIA CODE OF REGULATIONS: TITLE 8,GROUP 3, and ARTICLE 1, 16000 DEFINITIONS.

A person with the authority to affirm under penalty of perjury that the records provided, depict truly, fully and correctly the type of work performed, the hours worked, days worked and amounts paid.

CHANGES TO PREVAILING RATE AFTER AWARD
SEE LABOR CODE SECTION: 1773.6
No effect once the contract notice to bidders is published.
1773.6. If during any quarterly period the Director of Industrial Relations shall determine that there has been a change in any prevailing rate of per diem wages in any locality he shall make such change available to the LCP and his determination shall be final. Such determination by the Director of Industrial Relations shall not be effective as to any contract for which the notice to bidders has been published. *Exceptions; classifications marked as a double asterisks.*

CREDITS, FOR FRINGE BENEFIT PAYMENTS
SEE CALIFORNIA CODE OF REGULATIONS: TITLE 8, GROUP3, ARTICLE 4,
16200(i) Credit Available For Actual Payment of Fringe Benefit Costs up to the Prevailing Amount. The contractor obligated to pay the full prevailing rate of per diem wages may take credit for amounts up to the total of all fringe benefit amounts listed as prevailing in the appropriate wage determination. This credit may be taken only as to amounts which are actual payments under Employer Payments Section 16000(1)-(3). In the event the total of Employer Payments by a contractor for the fringe benefits listed as prevailing is less than the aggregate amount set out as prevailing in the wage determination, the contractor must pay the difference directly to the employee. No amount of credit for payments over the aggregate amount of employer payments shall be taken nor shall any credit decrease the amount of direct payment of hourly wages of those amounts found to be prevailing for straight time or overtime wages.
And memo from the division of industrial relations dated 11-15-90.
THE RULE:
The contractor can pay amounts for individual benefits different than the state shows in the wage reports so long as it is not less than the total amount indicated for all fringe benefits.

EMPLOYEE'S SUBJECT TO PREVAILING WAGES
SEE LABOR CODE SECTION 1771, 1772 & 1776 AND SEE

1771. Except for public works projects of one thousand dollars ($1,000) or less, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the public work is performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed as provided in this chapter, shall be paid to **all** workers employed on public works.

1772. Workers employed by contractors or subcontractors in the execution of any contract for public works are deemed to be employed upon public work.
1776. (a) Each contractor and subcontractor shall keep an accurate payroll record, showing the name, address, social security number, work classification, and 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 him or her in connection with the public work.

EMPLOYER PAYMENTS
SEE CALIFORNIA CODE OF REGULATIONS: TITLE 8, ARTICLE 1, SECTION 16000 DIFINITIONS
(1) The rate of contribution irrevocably made by a contractor or subcontractor to a trustee or to a third person pursuant to a fund, plan, or program for the benefit of employees, their families and dependents, or retirees;
(2) The rate of costs to the contractor or subcontractor which may be reasonably anticipated in providing benefits to employees, their families and dependents or to retirees pursuant to an enforceable commitment or agreement to carry out a financially responsible plan or program which was communicated in writing to the workers affected; and
(3) The rate of contribution irrevocably made by the contractor or subcontractor for apprenticeship or other training programs authorized by Section 3071 and/or 3093 of the Labor Code.

FRINGE BENEFIT PAYMENT REQUIREMENTS
SEE CALIFORNIA CODE OF REGULATIONS: TITLE 8, GROUP 3, and ARTICLE 1, 16000 DEFINITIONS
All fringe benefits must be irrevocably paid to an authorized fund or to the employee.
No unpaid amounts are allowed.

FRINGE BENEFITS INCLUDE
CALIFORNIA CODE OF REGULATIONS: TITLE 8, ARTICLE 1, SECTION 16000. DEFINITIONS
3) The prevailing rate of employer payments for any or all programs or benefits for employees, their families and dependents, and retirees which are of the types enumerated below:
(A) medical and hospital care, prescription drugs, dental care, vision care, diagnostic services, and other health and welfare benefits;
(B) retirement plan benefits;
(C) vacations and holidays with pay, or cash payments in lieu thereof;
(D) compensation for injuries or illnesses resulting from occupational activity;
(E) life, accidental death and dismemberment, and disability or sickness and accident insurance;
(F) supplemental unemployment benefits;
(G) thrift, security savings, supplemental trust, and beneficial trust funds otherwise designated, provided all of the money except that used for reasonable administrative expenses is returned to the employees;
(H) occupational health and safety research, safety training, monitoring job hazards, and the like, as specified in the applicable collective bargaining agreement;
(I) See definition of "Employer Payments," (3).
(J) other bonafide benefits for employees, their families and dependents, or retirees as the Director may determine; and
(4) travel time and subsistence pay as provided for in Labor Code Section 1773.8.

FRINGE BENEFITS DO NOT INCLUDE
CALIFORNIA CODE OF REGULATIONS: TITLE 8, ARTICLE 1, SECTION 16000. DEFINITIONS
(b) The term "general prevailing rate of per diem wages"
does not include any employer payments for:
(1) Job related expenses other than travel time and subsistence pay;
(2) Contract administration, operation of hiring halls, grievance processing, or similar purposes except for those amounts specifically earmarked and actually used for administration of those types of employee or retiree benefit plans enumerated above;
(3) Union, organizational, professional or other dues except as they may be included in and withheld from the basic taxable hourly wage rate;
(4) Industry or trade promotion;
(5) Political contributions or activities;
(6) Any benefit for employees, their families and dependents, or retirees including any benefit enumerated above where the contractor or subcontractor is required by Federal, State, or local law to provide such benefit; or
(7) Such other payments as the Director may determine to exclude. Interested Party. When used with reference to a particular prevailing wage determination made by the Director, includes:

PAYROLL RECORDS INCLUDE
CALIFORNIA CODE OF REGULATIONS: TITLE 8, ARTICLE 1, SECTION 16000. DEFINITIONS
All time cards, cancelled checks, cash receipts, trust fund forms, books, documents, schedules, forms, reports, receipts or other evidences which reflect job assignments, work schedules by days and hours, and the disbursement by way of cash, check, or in whatever form or manner, of funds to a person(s) by job classification and/or skill pursuant to a public works project.

PERSONS REQUIRED TO RECEIVE PREVAILING WAGES
SEE LABOR CODE SECTIONS:
1771....., shall be paid to all workers employed on public works.

1774. The contractor to whom the contract is awarded, and any subcontractor under him, shall pay not less than the specified prevailing rates of wages to all workmen employed in the execution of the contract.
COUNTY General Conditions require all workers not in a prevailing wage classification to be paid the wage most closely related to the craft or trade they are involved with.

WITHHOLDING PAYMENTS, JUSTIFICATION
SEE LABOR CODE SECTION: 1727 & 1771.5(b),(5)
SEE CALIFORNIA CODE OF REGULATIONS: TITLE 8, ARTICLE 5, and SECTION
16435(a) "Withhold" means to cease payments by the LCP on behalf of the awarding body, or others who pay on its behalf, or agents, to the general contractor. Where the violation is by a subcontractor, the general contractor shall be notified of the nature of the violation and reference made to its rights under Labor Code Section 1729.
(b) "Contracts." Except as otherwise provided by agreement, only contracts under a single master contract, or contracts entered into as stages of a single project, may be the subject of withholding.
(c) "Delinquent payroll records" means those not submitted on the date set in the contract.
(d) "Inadequate payroll records" are any one of the following:
(1) A record lacking the information required by Labor Code Section 1776;
(2) A record which contains the required information but not certified, or certified by someone not an agent of the contractor or subcontractor;
(3) A record remaining uncorrected for one payroll period, after the LCP has given the contractor notice of inaccuracies detected by audit or record review. Provided, however, that prompt correction will stop any duty to withhold if such inaccuracies do not amount to 1 percent of the entire Certified Weekly Payroll in dollar value and do not affect more than half the persons listed as workers employed on that Certified Weekly Payroll, as defined in Labor Code Section 1776 and Title 8 CCR Section 16401.

DIRECTOR OF INDUSTRIAL RELATIONS PRECEDENTIAL DECISIONS WHICH REQUIRE PREVAILING WAGES:

Decision 92-036: stands for the payment of out of state workers if they are working on California "Public Works"

Decision 93-019: stands for the payment of truck drivers removing, delivering or relocating material on a "Public Works"

Decision 94-017: stands for the payment of waste processors off site if the waste is exclusively from a "Public Works"

COURT DECISIONS:

Standard Traffic Services v. Department of Transportation (case 132667) Shasta: partners are due prevailing wages
If working on a "Public Works"

QUESTIONS: CALL COUNTY OF INYO DEPARTMENT OF PUBLIC WORKS, LABOR COMPLIANCE OFFICER (760) 878-0200

Suggested Single Project Labor Compliance Review and Enforcement Report Form

[Appendix C following 8 CCR §16434]

Awarding Body: _____

Project Name: _____

Name of Approved Labor Compliance Program:_____

Bid Advertisement Date:_____

Acceptance Date:_____

Notice of Completion Recordation Date:_____

Summary of Labor Compliance Activities

1. Contract Documents Containing Prevailing Wage Requirements (Identify)

_____

_____

_____

2. Pre-job Conference(s) -- Attach list(s) of attendees and dates

3. Notification to Project Workers of Labor Compliance Program's Contact Person. (Explain
Manner of Notification for each project work site.)

_____

_____

_____

4. Certified Payroll Record Review

a. CPR's Received From:

Contractor/Subcontractor For weeks ending ("w/e") through

w/e

_____

_____

_____

_____

b. Classifications identified in CPR's and applicable Prevailing Wage Determinations

Classification	Determination No.

5. Further investigation or audit due to CPR review, information or complaint from worker or other interested person, or other reason:

a. Independent Confirmation of CPR Data

Worker Interviews Contractor/Subcontractor	(Yes/No)	Reconciled CPR's with Pay-checks or Stubs Yes/No)

b. Employer Payments (Health & Welfare, Pension, Vacation/Holiday) Confirmation

Contractor/Subcontractor (Yes/No)	Recipients of Employer Payments	Written confirmation Obtained

c. Contributions to California Apprenticeship Council or Other Approved Apprenticeship Program

confirmation Contractor/Subcontractor (Yes/No)	Recipients of Contributions	Written Obtained
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

d. Additional Wage Payments or Training Fund Contributions Resulting from Review of CPR's

Explanation Contractor/Subcontractor nation	Additional amounts Paid to Workers	Additional Training Fund
_____ *	_____	_____
_____ *	_____	_____
_____ *	_____	_____
_____ *	_____	_____

* Use separate page(s) for explanation

6. Complaints Received Alleging Noncompliance with Prevailing Wage Requirements.

Name of Complainant	Date Received	Resolution or Current Status
_____	_____	*
_____	_____	*
_____	_____	*
_____	_____	*

*Use separate page(s) to explain resolution or current status

7. Requests for Approval of Forfeiture to Labor Commissioner

Contractor/Subcontractor	Date of Request	Approved/Modified/Denied
_____	_____	_____
_____	_____	_____
_____	_____	_____

8. Litigation Pending Under Labor Code Section 1742

Contractor/Subcontractor	DIR Case Number
_____	_____
_____	_____
_____	_____

9. (Check one): _____ Final report this project _____ Annual report this project

_____
Authorized Representative for Labor Compliance Program

Suggested Checklist of Labor Law Requirements to Review at Pre-job Conference, Section 16421, with suggested Certification by subcontractor.

The federal and state labor law requirements applicable to the contract are composed of but not limited to the following items:

(1) The contractor's duty to pay prevailing wages under Labor Code Section 1770 et seq., should the project exceed the exemption amounts;

(2) The contractor's duty to employ registered apprentices on the public works project under Labor Code Section 1777.5;

(3) The penalties for failure to pay prevailing wages (for non-exempt projects) and employ apprentices including forfeitures and debarment under Labor Code Sections 1775 and 1777.7;

(4) The requirement to keep and submit copies upon request of certified payroll records under Labor Code Section 1776, and penalties for failure to do so under Labor Code Section 1776(g);

(5) The prohibition against employment discrimination under Labor Code Section 1777.6; the Government Code, and Title VII of the Civil Rights Act of 1964;

(6) The prohibition against accepting or extracting kickback from employee wages under Labor Code Section 1778;

(7) The prohibition against accepting fees for registering any person for public work under Labor Code Section 1779; or for filling work orders on public works under Labor Code Section 1780;

(8) The requirement to list all subcontractors under Public Contracts Code Section 4104;

(9) The requirement to be properly licensed and to require all subcontractors to be properly licensed and the penalty for employing workers while unlicensed under Labor Code Section 1021 and under the California Contractors License Law, found at Business and Professions Code Section 7000 et seq;

(10) The prohibition against unfair competition under Business and Professions Code Sections 17200-17208;

(11) The requirement that the contractor be properly insured for Workers Compensation under Labor Code Section 1861;

(12) The requirement that the contractor abide by the Occupational, Safety and

Health laws and regulations that apply to the particular construction project;
(13) The federal prohibition against hiring undocumented workers, and the requirement to secure proof of eligibility/citizenship from all workers.
(14) The requirement to provide itemized wage statements to employees under Labor Code Section 226.

Certification:

I acknowledge that I have been informed and am aware of the foregoing requirements and that I am authorized to make this certification on behalf of [name of subcontractor].

_____ _____

Date Name of person signing and company

CHECKLIST OF LABOR LAW REQUIREMENTS TO REVIEW AT JOB CONFERENCE MEETINGS

(Pursuant to Title 8, Section 16430 of the California Code of Regulations)

NAME (print) _____ Date _____

COMPANY _____ Phone _____

ADDRESS _____ Fax # _____

_____ School _____

SUPERINTENDENT _____ Project # _____

The federal and state labor law requirements applicable to the contract are composed of, but not limited to, the following:

1. **Payment of Prevailing Wage Rates**
   The contractor to whom the contract is awarded and its subcontractors hired for the public works project are required to pay not less than the specified general prevailing wage rates to all workers employed in the execution of the contract.

   The contractor is responsible for ascertaining and complying with all current general prevailing wage rates for crafts and any rate changes that occur during the life of the contract. Information on all prevailing wage rates and all rate changes are to be posted at the job site for all workers to view.

2. **Apprentices**
   It is the duty of the contractor and subcontractors to employ registered apprentices on the public works project under Labor Code Section 1777.5;

3. **Penalties**
   There are penalties required for contractor's/subcontractor's failure to pay prevailing wages and for failure to employ apprentices, including forfeitures and debarment under Labor Code Sections 1775; 1776; 1777.1; 1777.7 and 1813;

4. **Certified Payroll Reports**
   Under Labor Code Section 1776, contractors and subcontractors are required to keep accurate payroll records showing the name, address, social security number and work classification of each employee and owner performing work; also the straight time and overtime hours worked each day and each week, the fringe benefits, and, the actual per diem wage

paid to each owner, journey person, apprentice worker or other employee hired in connection with the public works project.

Employee payroll records shall be certified and shall be made available for inspection at all reasonable hours at the principal office of the contractor/subcontractor, or shall be furnished to any employee, or his/her authorized representative on request, pursuant to Labor Code Section 1776;

Each contractor and subcontractor shall submit its weekly certified payroll reports to the Awarding Body on a monthly basis. In the event that there has been no work performed during a given week, the Certified Payroll Report shall be annotated: "No work" for that week.

Under Labor Code Section 1776 (h) there are penalties required for contractor's/subcontractor's failure to maintain and submit copies of certified payroll records on request.

5. **Nondiscrimination in Employment**
There exist prohibitions against employment discrimination under Labor Code Sections 1735 and 1777.6, the Government Code, the Public Contracts Code, and Title VII of the Civil Rights Act of 1964;

6. **Kickbacks Prohibited**
Contractors and subcontractors are prohibited from recapturing wages illegally or extracting "kickbacks" from employee wages under Labor Code Section 1778;

7. **Acceptance of Fees Prohibited**
There exists a prohibition against contractor/subcontractor acceptance of fees for registering any person for public work under Labor Code Section 1779; or for filling work orders on public works contracts pursuant to Labor Code Section 1780;

8. **Listing of Subcontractors**
All prime contractors are required to list properly all subcontractors hired to perform work on the public works projects covering more than one-half of one percent, pursuant to Government Code Section 4100 et seq.;

9. **Proper Licensing**
Contractors are required to be licensed properly and to require that all subcontractors be properly licensed. Penalties are required for employing workers while unlicensed under Labor Code Section 1021 and under the California Contractor License Law found at Business and Professions Code Section 7000 et seq.

10. **Unfair Competition Prohibited**
Contractors/Subcontractors are prohibited from engaging in unfair competition as specified under Business and Professions Code Sections 17200 to 17208;

11. **Workers Compensation Insurance**
Labor Code Section 1861 requires that contractors and subcontractors be insured properly for Workers Compensation.

12. **OSHA**
Contractors and subcontractors are required to abide by the Occupational, Safety and Health laws and regulations that apply to the particular construction project.

13. **Undocumented Workers**
Federal law prohibits contractors and subcontractors from hiring undocumented workers and requires contractors and subcontractors to secure proof of eligibility/citizenship from all workers.

14. **Itemized Wage Statements**
Contractors and subcontractors are required to provide itemized wage statements to employees under Labor Code Section 226.

In accordance with federal and state laws and with Awarding Body contract documents, the undersigned prime contractor wishes to assure the Awarding Body that it intends to comply with the above-referenced labor law requirements, fully understanding that failure to comply with the above requirements may subject it to penalties as provided above.

For the Contractor:

_____
(Signature)

_____
(Date)

_____
Prime Contractor

_____
Project Name

For the Awarding Body:

_____
(Signature)

_____
(Date)

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF APPRENTICESHIP STANDARDS
28 CIVIC CENTER PLAZA, ROOM 525
SANTA ANA, CA 92701

TO ALL PUBLIC WORKS CONTRACTORS

Congratulations on having been awarded a public works project.

The Division of Apprenticeship Standards wishes to bring to your attention your responsibilities under California Labor Code Section 1777.5 Apprentices on Public Works. (Excerpts from California Labor Code relating to apprentices on public works. DAS-10 is attached).

Compliance with California Labor Code Section 1777.5 requires all public works contractors and subcontractors to:

- Submit contract award information within 10 days of contract award, to the applicable Joint Apprenticeship Committee, which shall include an estimate of Journeymen hours to be performed under the contract, the number of apprentices to be employed, and the approximate dates the apprentices will be employed. This information may be submitted on the attached form. DAS 140.

- Employ apprentices on the public work in a ratio to journeymen of no less than one hour of apprentices work for every five hours of labor performed by a journeyman.

- Pay the apprentice rate on public works projects only to those apprentices who are registered as defined in Labor Code Section 3077.

- Contribute to the training fund in the amount identified in the Prevailing Wage Rate publication for journeymen and apprentices. Contractors who choose not to contribute to the local training trust fund must make their contribution to the California Apprenticeship Council (CAC) at P.O. Box 420603, San Francisco, CA 94142.

- Training fund contributions to the CAC are due and payable on the 15th day of each month for work performed during the preceding month.

- Training fund contributions to the CAC shall be paid by check and shall be accompanied by a completed form CAC-2 (attached).

Failure to comply with the provisions of the Labor Code Section 1777.5 may result in the loss of the right to bid on all public works projects for a period of one to three years and the imposition of a civil penalty of $100.00 for each calendar day of noncompliance. Contractors should provide a copy of this material to each subcontractor.

If the Division of Apprenticeship Standards can be of assistance to you, please contact our office at (714) 558-4126.

Division of Apprenticeship Standards

APPRENTICES ON PULIC WORKS

SUMMARY OF REQUIREMENTS

Compliance with California Labor Code Section 1777.5 requires all public works contractors and subcontractors to:

- Submit contract award information to the applicable joint apprenticeship committee, including an estimate of the journeyman hours to be performed under the contract, the number of apprentices to be employed, and the approximate dates the apprentices will be employed.

  The contract award information shall be in writing, and shall be provided to the applicable apprenticeship committee within 10 days of the date of the agreement or contract award, but in no event later than the first day in which the contractor has workers employed upon the public work. (California Code of Regulations, Title 8, Section 230.)

- Employ apprentices on the public work in a ratio to journeymen of no less than one hour of apprentice work for every five hours of labor performed by a journeyman.

- Contribute to the training fund in the amount identified in the Prevailing Wage Rate publication for journeymen and apprentices. Contractors who choose not to contribute to the local training trust fund must make their contributions to the California Apprenticeship Council, P.O. Box 420603, San Francisco, CA 94142. Training contributions to the Council are due and payable on the 15th of the month for work performed during the preceding month.

  Training contributions to the Council shall be paid by check and shall be accompanied by a completed CAC2 form, Training Fund Contributions, or the following information (California Code of Regulations, Title 8, Section 230.2 c):

  1. The name, address and telephone number of the contractor making the contribution.
  2. The contractor's license number.
  3. The name an address of the public agency that awarded the contract.
  4. The jobsite location, including the county where the work was performed.
  5. The contract or project number
  6. The time period covered by the enclosed contributions.
  7. The contribution rate and total hours worked by the apprenticable occupation(s).

- Pay the apprentice rate on public works projects only to those apprentices who are registered, as defined in Labor Code Section 3077:

  > Sec. 3077. The term "apprentice" as used in this chapter, means a person at least 16 years of age who has entered into a written agreement, in this chapter called an "apprentice agreement", with an employer or program sponsor. The term of apprenticeship for each apprenticeable occupation shall be approved by the chief, and in no case shall provide for no less than 2,000 hours or reasonably continuous employment for such person for his or her participation in an approved program of training through employment and through education in related and supplemental subjects.

State of California
Department of Industrial Relations

PUBLIC WORKS
CONTRACT AWARD INFORMATION

Name of Contractor:	Contractor's State License No.:
Contractor's Mailing Address – Number & Street, City, Zip Code:	Area Code & Telephone No.:
Name & Location of Public Works Project:	Date of Contract Award: Date of Expected or Actual Start of Project:
Name & Address of Public Agency Awarding Contract	Estimated Number of Journeymen Hours:

APPRENTICES		
Occupation of Apprentice	Number To Be Employed	Approximate Dates To Be Employed

Check One Of The Boxes Below

Please Note: Your election of options is not to be deemed a request for the immediate dispatch of apprentices. Contractors must make a separate request for actual dispatch.

Box 1 ☐ We will request dispatch of apprentice(s) for this job in accordance with Section 230.1 (A), California Code of Regulations. We voluntarily choose to comply with the applicable Apprenticeship Committee Standards for the duration of this job only, with regard to training apprentices and to the payment of training contributions.

Box 2 ☐ We will request dispatch of apprentice(s) for this job in accordance with Section 230.1 (A), California Code of Regulations, but do not agree to be bound by the applicable Apprenticeship Committee Standards in training the apprentices; instead, we agree to employ and train apprentice(s) in accordance with the California Apprenticeship Council regulations, including section 230.1 of the California Code of Regulations, governing employment of apprentices on public work projects.

Box 3 ☐ We are already approved to train apprentices by the applicable Apprenticeship Committee and we will employ and train under the Standards. We will request dispatch of apprentices for this job in accordance with Section 230.1 (A), California Code of Regulations.

Box 4 ☐ We will not request the dispatch of apprentice(s) since apprentices are not required on this job under the provisions of California Labor Code Section 1777.5, because:

_____

_____

Signature: _____

Typed Name _____

Title: _____ Date: _____

P.O. Bo 420603
San Francisco, CA 94142

Please use a separate form for each jobsite, listing the occupations for the jobsite. One check, payable to the California Apprenticeship Council, may be submitted for all jobsites and/or occupations. Training fund contributions are not accepted by the California Apprentice Council for federal public works projects, or for non-apprenticable occupations such as laborers, utility technicians, teamsters, etc.

TRAINING FUND CONTRIBUTIONS

California Apprenticeship Council

Name and Address of Contractor/Subcontractor making Contribution	Contractor's License Number
	Contract or Project Number
Name and Address of Public Agency Awarding Contract	Jobsite Location (Including County)
	Period Covered by Contribution

Classification(s) or Workers (Carpenter, Plumber, Electrician, Etc.)	Hours	Cont. Rate per Hour	Amount

Signature	Date
Title	Area Code & Telephone Number

CAC 2

COUNTY OF INYO DEPARTMENT OF PUBLIC WORKS

CONTRACTOR FRINGE BENEFIT STATEMENT

Contract Number / Name:	Contract Location:	Today's Date:

Contractor / Subcontractor Name:	Business Address:

In order that the proper Fringe Benefit rates can be verified when checking payrolls on the above contract, the hourly rates for fringe benefits, subsistence and/or travel allowance payment made for employees on the various classes of work are tabulated below.

Classification:	Effective Date:	Subsistence or Travel Pay: $ _____

FRINGE BENEFITS			
Health & Welfare	$ _____	PAID TO:	Name: _____ Address: _____
Pension	$ _____	PAID TO:	Name: _____ Address: _____
Vacation/ Holiday	$ _____	PAID TO:	Name: _____ Address: _____
Training and/or Other	$ _____	PAID TO:	Name: _____ Address: _____

Classification:	Effective Date:	Subsistence or Travel Pay: $ _____

FRINGE BENEFITS			
Health & Welfare	$ _____	PAID TO:	Name: _____ Address: _____
Pension	$ _____	PAID TO:	Name: _____ Address: _____
Vacation/ Holiday	$ _____	PAID TO:	Name: _____ Address: _____
Training And/or Other	$ _____	PAID TO:	Name: _____ Address: _____

Classification:	Effective Date:	Subsistence or Travel Pay: $ _____

FRINGE BENEFITS			
Health & Welfare	$ _____	PAID TO:	Name: _____ Address: _____
Pension	$ _____	PAID TO:	Name: _____ Address: _____
Vacation/ Holiday	$ _____	PAID TO:	Name: _____ Address: _____
Training And/or Other	$ _____	PAID TO:	Name: _____ Address: _____

Supplemental statements must be submitted during the progress of work should a change in rate of any of the classifications be made.

Submitted: Contractor / Subcontractor	By: Name / Title

Name of Contractor: or Subcontractor: ABC Lighting Company

Business Address: 123 Main Street Antioch Ca 92222

Contractor's License#: 00-111-2222
Worker's Compensation Policy# 99-888-77

S = Straight Time O = Overtime SDI = State Disability Insurance
*Other = Any other deductions, contributions and/or payments whether or not included or required by prevailing wage determinations must be separately listed.

Employee's Name, Address and Social Security Number	# of withholding exemptions	Work Classification	M	T	W	TH	F	S	S		Total Hours	Rate of Pay	Gross Amount Earned	
			Hours Worked Each Day / Day & Date											
John Smith 444 5th Avenue Antioch CA 92111 444-55-6666	S-4	Fixture Cleaner	8	8						S	16	11.50	This Project:	184.00
										O			All Projects:	725.00

Net Wages Paid for Week: 168.63 Check 12345

Deductions, Contributions and Payments													
Federal Tax	FICA Soc Sec	State Tax	SDI	Vacation /Holiday	Health & Welfare	Pension	Training	Fund Admin	Dues	Travel/ Subs.	Savings	Other*	Total Deductions
0	14.08	0	1.29										15.37

			M	T	W	TH	F	S	S		Total Hours	Rate of Pay	Gross Amount Earned	
Juan Gomez 1212 Main Street Antioch, CA 95555 555-66-9999	M-3	Fixture Cleaner	8	8	8		8			S	40	12.00	This Project:	480.00
										O			All Projects:	936.00

Net Wages Paid for Week: 409.58 Check 12346

Deductions, Contributions and Payments													
Federal Tax	FICA Soc Sec	State Tax	SDI	Vacation /Holiday	Health & Welfare	Pension	Training	Fund Admin	Dues	Travel/ Subs.	Savings	Other*	Total Deductions
29.00	36.72	1.34	3.36										70.42

			M	T	W	TH	F	S	S		Total Hours	Rate of Pay	Gross Amount Earned	
										S			This Project:	
										O			All Projects:	

Net Wages Paid for Week: Check

Deductions, Contributions and Payments													
Federal Tax	FICA Soc Sec	State Tax	SDI	Vacation /Holiday	Health & Welfare	Pension	Training	Fund Admin	Dues	Travel/ Subs.	Savings	Other*	Total Deductions

SAMPLE

I, Mary Jones (Name -- print), the undersigned, am Payroll Clerk (position of business) with the authority to act for and on behalf of ABC Lighting (name of business and/or contractor), certify under penalty of perjury that the records or copies thereof submitted and consisting of 1 (description, no. of pages) are the originals or true, full, and correct copies of the originals which depict the payroll record(s) of the actual disbursements by way of cash, check, or whatever form to the individual or individuals named.

Date: 6/30/00 Signature:

Department of Industrial Relations

PUBLIC WORKS PAYROLL REPORTING FORM

NAME OF CONTRACTOR OR SUB CONTRACTOR | CONTRACTORS LICENSE # SPECIALTY LICENSE # | ADDRESS

PAYROLL NO. | FOR WEEK ENDING | SELF-INSURED CERTIFICATE # WORKERS' COMPENSATION POLICY # | PROJECT OR CONTRACT NO. PROJECT AND LOCATION

(1) NAME, ADDRESS AND SOCIAL SECURITY NUMBER OF EMPLOYEE	(2) NO. OF WITH-HOLDING EXEMPTIONS	(3) WORK CLASSIFICATION		(4) Day / Date / Hours Worked Each Day: M	T	W	TH	F	S	S	(5) TOTAL HOURS	(6) HOURLY RATE OF PAY	(7) GROSS AMOUNT EARNED: THIS PROJECT	ALL PROJECTS	(8) DEDUCTIONS, CONTRIBUTIONS AND PAYMENTS: FED TAX	FICA (SOC SEC)	STATE TAX	SDI	VAC/ HOL	HEALTH & WELF	PENSION	(9) NET WGS PAID FOR WEEK	CHECK NO.
			S																			
			O												TRANING	FUND ADMIN	DUES	TRV/ SUBS	SAVINGS	OTHER*	TOTAL DED-UCTIONS	
			S										THIS PROJECT	ALL PROJECTS	FED TAX	FICA (SOC SEC)	STATE TAX	SDI	VAC/ HOL	HEALTH & WELF	PENSION	
			O												TRANING	FUND ADMIN	DUES	TRV/ SUBS	SAVINGS	OTHER*	TOTAL DED-UCTIONS	
			S										THIS PROJECT	ALL PROJECTS	FED TAX	FICA (SOC SEC)	STATE TAX	SDI	VAC/ HOL	HEALTH & WELF	PENSION	
			O												TRANING	FUND ADMIN	DUES	TRV/ SUBS	SAVINGS	OTHER*	TOTAL DED-UCTIONS	
			S										THIS PROJECT	ALL PROJECTS	FED TAX	FICA (SOC SEC)	STATE TAX	SDI	VAC/ HOL	HEALTH & WELF	PENSION	
			O												TRANING	FUND ADMIN	DUES	TRV/ SUBS	SAVINGS	OTHER*	TOTAL DED-UCTIONS	

Form A 1-131 (New 2-80)
(form has been reduced to fit page)

S = Straight Time
O = Overtime
SDI = State Disability Insurance

*OTHER - Any other deductions, contributions and/or payment whether or not included or required by prevailing wage determinations must be separately listed. Use extra sheet if necessary

CERTIFICATION must be completed

I, _____ (Name - Print), the undersigned, am _____ (position with business) with the authority to act for and on behalf of _____ (name of business and/or contractor), certify under penalty of perjury that the records or copies thereof submitted and consisting of _____ (description, no. of pages) are the originals or true, full and correct copies of the originals which depict the payroll record(s) of the actual disbursements by way of cash, check,or whatever form to the individual or individuals named.

Date: _____ Signature: _____

A public entity may require a stricter and/or more extensive form of certification.

GENERAL PREVAILING WAGE DETERMINATION MADE BY THE DIRECTOR OF INDUSTRIAL RELATIONS
PURSUANT TO CALIFORNIA LABOR CODE PART 7, CHAPTER 1, ARTICLE 2, SECTIONS 1770, 1773 AND 1773.1
FOR COMMERCIAL BUILDING, HIGHWAY, HEAVY CONSTRUCTION AND DREDGING PROJECTS

CRAFT: # CARPENTER

DETERMINATION: SD-23-31-4-2000-1
ISSUE DATE: February 22, 2000
EXPIRATION DATE OF DETERMINATION: June 30, 2000** The rate to be paid for work performed after this date has been determined. If work will extend past this date, the new rate must be paid and should be incorporated in contracts entered into now. Contact the Division of Labor Statistics and Research for specific rates at (415) 703-4774.

LOCALITY: All localities within Contra Costa County

CLASSIFICATION (JOURNEYPERSON) and	Basic Hourly Rate	Employer Payments: Health and Welfare	Pension	Vacation/ Holiday	Training	Straight-Time: Hours	Total Hourly Rate	Overtime Hourly Rate: Daily 1 1/2X	Saturday a 1 1/2X	Sunday Holiday
ENGINEERING CONSTRUCTION										
Carpenter (Heavy and Highway work)	$25.25	2.30	1.01	2.72 b	.30	8	31.58	44.205	44.205	56.83
Light Commercial	20.40	2.30	1.01	2.72 b	.30	8	26.73	36.93	36.93	47.13
Bridge Carpenter (Highway work)	25.38	2.30	1.01	2.72 b	.30	8	31.71	44.40	44.40	57.09
Millwright	25.75	2.30	1.01	2.72 b	.30	8	32.08	44.955	44.955	57.83
Pile Driver	25.38	2.30	1.01	2.72 b	.30	8	31.71	44.40	44.40	57.09
Diver, Wet (up to 50 ft. depth)cd	55.76 117.85	2.30	1.01	2.72 b	.30	8	62.09	89.97	89.97	
Diver, Standby	28.38	2.30	1.01	2.72 b	.30	8	34.71	48.90	48.90	63.09
Diver's Tender	27.38	2.30	1.01	2.72 b	.30	8	33.71	47.40	47.40	61.09

DETERMINATION: SD-23-31-4-2000-1A
ISSUE DATE: February 22, 2000
EXPIRATION DATE OF DETERMINATION: July 1, 2000** The rate to be paid for work performed after this date has been determined. If work will extend past this date,
the new rate must be paid and should be incorporated in contracts entered into now. Contact the Division of Labor Statistics and Research for specific rates at (415) 703-4774.

LOCALITY: All localities within Antioch County

BUILDING CONSTRUCTION										
Carpenter	$23.40	2.30	1.01	2.17 b	.30	8	29.18	40.88	40.88	52.58
Light Commercial	18.72	2.30	1.01	2.17 b	.30	8	24.50	33.86	33.86	43.22

DETERMINATION: SD-31-741-1-2000-1
ISSUE DATE: FEBRUARY 22, 2000
EXPIRATION DATE OF DETERMINATION: May 31, 2000* Effective until superseded by a new determination issued by the Director of Industrial Relations. Contact the
Division of Labor Statistics and Research (415) 703-4774 for the new rates after 10 days from the expiration date, if no subsequent determination is issued.

LOCALITY: All localities within Antioch County

Classification (Journeyperson) and	Basic Hourly Rate	Employer Payments: Health and Welfare	Pension	Vacation/ Holiday	Training	Straight-Time: Hours	Total Hourly Rate	Overtime Hourly Rate: Daily 1 1/2X	Saturday a 1 1/2X	Sunday Holiday
Terrazzo Installer	$29.55	2.30	1.01	1.72 b	-	8	34.58	49.355	49.355	64.13
Terrazzo Finisher	23.05	2.30	1.01	1.72 b	-	8	28.08	39.605	39.605	51.13

# Indicates an apprenticeable craft. Rates for apprentices are available in the General Prevailing Wage Apprentice Schedules. a Saturday in the same workweek may be worked at straight-time rate for the first 8 hours if the employee was unable to complete the 40 hours during the normal workweek. b Includes supplemental dues. c Shall receive a minimum of 8 hours pay for any day or part thereof. d For specific rates over 50 ft. depth, contact the Division of Labor Statistics and Research.

DESCRIPTION:

Engineering Construction
Refers to construction which requires a Class A license and includes bridges, highways, dams and also power plants and other heavy industrial type projects.

Building Construction
Requires a Class B license and includes non-residential buildings (such as hospitals, government buildings, public schools) and commercial buildings (with the exception of industrial buildings).

RECOGNIZED HOLIDAYS: Holidays upon which the general prevailing hourly wage rate for Holiday work shall be paid, shall be all holidays in the collective bargaining agreement, applicable to the particular craft, classification, or type of worker employed on the project, which is on file with the Director of Industrial Relations. If the prevailing rate is not based on a collectively bargained rate, the holidays upon which the prevailing rate shall be paid shall be as provided in Section 6700 of the Government Code. You may obtain the holiday provisions for the current determinations on the Internet at http://www.dir.ca.gov/DLSR/PWD. Holiday provisions for current or superseded
determinations may be obtained by contacting the Prevailing Wage Unit at (415) 703-4774.

TRAVEL AND/OR SUBSISTENCE PAYMENT: In accordance with Labor Code Sections 1773.1 and 1773.9, contractors shall make travel and/or subsistence payments to each worker to execute the work. Travel and/or subsistence requirements for each craft, classification or type of worker may be obtained from the Prevailing Wage Unit at (415) 703-4774.

SAMPLE

COUNTY OF INYO DEPARTMENT OF PUBLIC WORKS
LABOR COMPLIANCE SITE VISITATION INTERVIEW FORM
FORMA DE INTREVISTA DEL SITIO SOBRE CONDECENCIA LABORARIA

Labor Compliance Officer (---)--- ----

SITE NAME:_____ DATE_____
SITIO: FECHA:
PROJECT NAME:_____

CONTRACT #:_____ Interior / Exterior (circle)

CONTRACTOR:_____
CONTRANTE:

SUBCONTRACTOR:_____
SUBCONTRATANTE

Person Interviewed:_____
Nombre de Persona Entrevistada

S/S Number _____/_____/_____
Numero de Seguro Social

Position Title:_____
Possion O Titulo del Entrevistado

Task Being Performed at Time of This Interview:_____

Clase de Labor Desenpenando al Tiempo de Entrevista

Hourly Pay Rate: $_____
Salario Horario

OBSERVATIONS:

Site Inspector:_____Telephone

Project Superintendent:_____Telephone_____

Total number of workers observed on the visit:_____

Type of work observed:_____

Type of workers observed: _____

Was the worker believable? Yes No

Did the superintendent or foreman accompany you on the site? Yes No

Explain additional information received from the worker:_____

_____

_____

Interview Conducted by:_____

SITE VISITATION LOG

SITE	VISIT DATE	PRIME CONTRACTOR	SUB CONTRACTOR	EMPLOYEE NAME	SOCIAL SECURITY #	POSITION TITLE	TASK PERFORMED AT INTERVIEW	PAY RATE	COMPLIANT / NON COMPLIANT	LABOR COMPLIANCE OFFICE COMMENTS
Hoover	9/1/99	Baker	Mills	John Doe	111-11-1111	Plumber	Repairing Plumbing	$34.19	Compliant	Certified Payroll Records check out
Hoover	9/1/00	Baker	Mills	Mark Baker	222-22-2222	Laborer	Painting	$10.40	Non	Certified Payroll does not check out with interview

COUNTY OF INYO DEPARTMENT OF PUBLIC WORKS

July 21, 2012

Certified Mail

Mr. John Doe
ACME Painting
13414 Labor Street
Los Angeles, CA 90605

Sample

Pre Award Letter

Dear Mr. Doe:

The County of Inyo Department of Public Works has identified your firm as the apparent low bidder for Contract #90-225 Portable Contract Moving Services and has scheduled board approval of a contract requiring your compliance with Division 2 Part 7 of the California Labor Code. This will require the payment of prevailing wages to all workers employed on the project and the reporting of the certified weekly payroll to the LCO. The Labor Code requires, prior to the start of work that a person qualified to certify documents for your firm attend a review meeting with the LCP concerning the Labor Code prevailing wage laws.

The LCO is formally requesting the appearance of the certifying person for the code review, the submittal of the required weekly certified payroll records or nonperformance reports, and the monthly submittal of employment utilization reports, all identified in the contract general conditions.

This request is made pursuant to, and authorized by, California State Labor Code Section 1776(b)(2), which states, "A certified copy of all payroll records enumerated in subdivision (a) shall be made available for inspection or furnished upon request to a representative of the body awarding the contract, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards of the Department of Industrial Relations" and California Code of Regulations section 16430 (a) (2).

The goal of the LCO is to provide the necessary information, assistance, forms and procedures to allow your project to move forward on schedule and in compliance with the State's Labor Code.

Please call the Awarding Body Labor Compliance Officer at (760)878-0200 to set an appointment and receive the necessary forms prior to the start of your project.

Respectfully,

County of Inyo DPW
Labor Compliance Officer

COUNTY OF INYO DEPARTMENT OF PUBLIC WORKS

July 27, 2012

Certified Mail

Jane Doe
ACME Flooring
8320 Camino Santa Fe
Antioch, CA 92121

Sample

Post Award Letter

Dear Ms. Doe:

The Awarding Body has awarded your firm a contract requiring your compliance with Part 7, chapter 1 of the California Labor Code. This will require the payment of prevailing wages to all workers employed on the project and the reporting of the weekly payroll to the Awarding Body's Labor Compliance Officer.

The Labor Code requires, prior to the start of work that a person qualified to sign and certify for your firm attend a review with the LCP of the Labor Code prevailing wage laws.

The Labor Compliance Officer goal is to provide the necessary information, assistance, forms and procedures to allow your project to move forward on schedule and in compliance with the State's Labor Code.

Please call the LCP Labor Compliance Officer at (760) 760-0200 to set an appointment and receive the necessary forms prior to the start of your project.

Respectfully,

COUNTY OF INYO DPW
Labor Compliance Coordinator

COUNTY OF INYO DEPARTMENT OF PUBLIC WORKS

March 23, 2012 Certified Mail

John Doe
ACME Construction Co.
3170 Labor Street
Vista, CA 92083-8318

Sample
1st Request for Certified Payrolls

Mr. Doe:

The LCP Labor Compliance Officer is formally requesting copies of Certified Payroll Records and Monthly Utilization Reports for the modernization of Cubberly, Jones and Fletcher schools. We are requesting the records from the beginning of the project through project completion for your firm and all subcontractors.

This request is made pursuant to, and authorized by, California State Labor Code Section 1776 (b) (2) and Section 1776 (h) (3) and the contract general conditions requiring weekly employee payments and weekly certified payroll submittals.

Labor Code Section 1776 (b) (2) states: "A certified copy of all payroll records enumerated in subdivision (a) shall be made available for inspection or furnished upon request to a representative of the body awarding the contract, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards of the Department of Industrial Relations."

Labor Code 1776 (h) (3) states: "The contractor shall have 10 days in which to comply subsequent to receipt of written notice specifying in what respects the contractor must comply with this section. In the event that the contractor fails to comply within the 10-day period, he or she shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit one hundred dollars ($100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated."

Please forward all weekly Certified Payroll Records on the state approved forms previously provided to: LCP, Labor Compliance Officer,. If you have any questions, contact me at (---)--- ----.

Respectfully,

COUNTY OF INYO DPW
Labor Compliance Officer

Prime Contractor:
Project:

Original Request: 01/08/12

This Request: 02/08/12

1. **Apprenticeship Training Agreement (similar to Form DAS 1) must be provided for:**

2. **Apprenticeship Training Agreement (similar to Form DAS 7) must be provided for:**

3. **Training Fund Contributions (Form CAC 2 or equivalent) must be provided for:**

4. **Public Works Contract Award Information (Form DAS 140) with the name, address and phone number of the training program notified by all project contractors must be provided for:**

5. **Fringe Benefits Statements must be provided for:**

6. **Signed certified Payroll report or statement of Non-Performance with <u>original signatures</u> must be provided for:**

   contractors are responsible for submittal of their payrolls and those of their respective subcontractors as one package, which must be in the LCP's Labor Compliance Officer **<u>within one week of each weekly paycheck</u>**. In the event there has been no work performed during a given week, the certified payroll record shall be annotated with the words "No Work" for that week.

   •

7. **To determine the required hours for apprentices on this project we will need the contractor to Identify all sub-contractors who will perform work in involving less than $30,000 or who will be on the project less than 20 calendar days or both.**

8. **Either the Public Works Payroll Reporting Form (Form A-1-131) or Public Agencies & School Districts reporting form must be used.**

Sample

Missing Document List

Attachment 2

ACME HIGH SCHOOL RE-ROOF

PRIME CONTRACTOR: **ACME ROOFING CO., INC**

Original Issue date: 00-00-0000

Latest Issue: 00-00-0000

REPORTING CONTRACTOR :**COMMERCIAL AND INDUSTRIAL ROOFING CO.,INC**								**District**		
CONTRACTOR PROVIDED INFORMATION								**County comments**		
Employee Name & Social Security Number	**Work Classification**	**Week Ending**	**Rate Paid**	**Fringes Paid**	**Gross Per Hour**	**Hours Worked**	**Gross Amount Paid**	**Prevailing Wage Rate**	**Amount they should have been paid**	**Difference**
					$0.00		$0.00		$0.00	$0.00
					$0.00		$0.00		$0.00	$0.00
					$0.00		$0.00		$0.00	$0.00
					$0.00		$0.00		$0.00	$0.00
					$0.00		$0.00		$0.00	$0.00
					$0.00		$0.00		$0.00	$0.00
					$0.00		$0.00		$0.00	$0.00
					$0.00		$0.00		$0.00	$0.00
					$0.00		$0.00		$0.00	$0.00
					$0.00		$0.00		$0.00	$0.00
					$0.00		$0.00		$0.00	$0.00
					$0.00		$0.00		$0.00	$0.00
					$0.00		$0.00		$0.00	$0.00
					$0.00		$0.00		$0.00	$0.00
								Total Contractor Difference:		**$0.00**

Total Project Difference $0.00

STATE OF CALIFORNIA - DEPARTMENT OF INDUSTRIAL RELATIONS

TO: California Department of Industrial Relations
Division of Apprenticeship Standards
P.O. Box 420603
San Francisco, CA 94142

FROM: AWARDING BODY

CA

AWARDING AGENCY ID NUMBER

If you do not have an ID number please contact DAS

EXTRACT OF
PUBLIC WORKS CONTRACT AWARD

A CONTRACT TO PERFORM PUBLIC WORKS UNDER LABOR CODE SECTION 1777.5 HAS BEEN AWARDED TO:

1. NAME OF GENERAL CONTRACTOR		2. CONTRACTOR'S LICENSE NO
3. MAILING ADDRESS (STREET NUMBER OR P.O. BOX)		4. CITY 5. ZIP CODE 16. TELEPHONE NUMBER
7. GENERAL CONTRACTOR'S CONTACT EMAIL ADDRESS		8. ADDRESS/LOCATION OF PUBLIC WORKS SITE (INCLUDE CITY AND COUNTY): 8a. County
9 .. NAME OF PROJECT		
10. CONTRACT NUMBER	11. PROJECT NUMBER	12. DOLLAR AMOUNT OF CONTRACT AWARD
13. FIRST ADVERTISED BID DATE MONTH DAY YEAR	14 CONTRACT AWARD DATE MONTH DAY YEAR	12a ESTIMATED TOTAL PROJECT COSTS, IF DIFFERENT FROM ITEM 12 (see instructions). 15. WHICH STATUTE, IF ANY, APPLIES TO THIS PROJECT?
16. STATE CONSTRUCTION BONDS ☐ YES ☐ NO If YES, List the Sources and Dollar Amount of Bond Proceeds: SOURCES DOLLAR AMOUNT		17. WILL YOU OPERATE A DIR-APPROVED LABOR COMPLIANCE PROGRAM (LCP) FOR THIS PROJECT? DYES DNo 18. IS THERE A PROJECT LABOR AGREEMENT (PLA) ASSOCIATED WITH THIS PROJECT? *If yes, please email a copy to cmupla@dir.ca.gov* ☐ YES ☐ NO
19. STARTING DATE (ESTIMATED OR ACTUAL) (MM/DDIYYVY)		20. COMPLETION DATE (ESTIMATED OR ACTUAL) (MM/DDIYYYY)
21. BRIEF DESCRIPTION OF WORK TO BE PERFORMED		22 ☐ NEW CONSTRUCTION ☐ REMODELING ☐ ALTERATION, DEMOLITION, REPAIR OR MAINTENANCE
23. CLASSIFICATION OR TYPE OF WORKER (CARPENTER, PLUMBER, ETC.) THAT WILL BE EIMPOYED BY THE CONTRACTOR(S) Asbestos Boilermaker Please list Sub-contractors and their worker classifications on page 2		
24. Is language included in the Contract Award to effectuate the requirements of sections 1771, 1774, 1775, 1776, 1777.5, 1813, and 1815 of the Labor Code? ☐ YES ☐ NO		
25. SIGNATURE	26. TITLE	27. DATE
28. PRINTED OR TYPED NAME	29. E-MAIL ADDRESS	30. TELEPHONE NUMBERS
If different from above, name, title, and contact information of person responsible for carrying out Awarding Body's LCP or CMU responsibilities.		
31. NAME	32. TITLE	33. E-MAIL ADDRESS 134. TELEPHONE NUMBER

Duplication of this form is permissible
D1R-PWC 100 (rev. 10/11) successor to the DAS 13 form

EXTRACT OF PUBLIC WORKS CONTRACT AWARD (Continued)

Listing of Sub Contractors

Con. Lic. #	Contractor	Classification of workers
		Asbestos Boilermaker Bricklayers Carpenters Carpet/Linoleum Cement Masons
		Asbestos Boilermaker Bricklayers Carpenters Carpet/Linoleum Cement Masons
		Asbestos Boilermaker Bricklayers Carpenters Carpet/Linoleum Cement Masons
		Asbestos Boilermaker Bricklayers Carpenters Carpet/Linoleum Cement Masons
		Asbestos Boilermaker Bricklayers Carpenters Carpet/Linoleum Cement Masons
		Asbestos Boilermaker Bricklayers Carpenters Carpet/Linoleum Cement Masons
		Asbestos Boilermaker Bricklayers Carpenters Carpet/Linoleum Cement Masons
		Asbestos Boilermaker Bricklayers Carpenters Carpet/Linoleum Cement Masons

DIR--PWC 100 (rev. 10111) successor to the DAS 13 form

Labor Compliance Program Regulations – APPENDIX D

Article I. **REQUEST FOR APPROVAL OF FORFEITURE -- Suggested format**

Article II.

1. AWARDING BODY / THIRD PARTY LCP:

Name and Contact Information:	**Date of Request:**
Name and Contact Information for Awarding Body if different from LCP:	LCP Approval Status (specify if either interim or temporary or if LCP has extended authority):

2. PROJECT INFORMATION:

Project Name:	Contract Number:
Project Location:	
Bid Advertisement Dates:	Estimated Date Project is to be completed:
Acceptance Date of Project by the Awarding Body:	Notice of Completion/Date Recorded with County Recorder:
Other Relevant Deadline (specify):	Amount being held in Retention:

3. CONTRACTOR INFORMATION:

Name and address of Affected Contractor:	Name and address of Affected Subcontractor:
General Description of Scope of Work of the Entire Project:	

General Description of Scope of Work covered in the proposed Forfeiture (describe and attach relevant portions of contract or subcontract):

4. **LABOR COMPLIANCE PROGRAM INVESTIGATION AND FINDINGS:**

Total Amount of Request for Notice of Withholding of Contract Payments:			
Wages Due:	Training Funds Due:	Total Penalties Due:	Potential Liquidated Damages [Wages + Training Funds]:
LC 1775 Penalties Due:	LC 1813 Penalties Due:	LC 1776 Penalties Due:	Other:

[Provide narrative summaries covering the following]:

A. Statement of Issues.

B. Investigative Report (detailed narrative including but not limited to how the investigation was conducted including worker declarations, reviewing certified payroll records, verification of employer payment contributions, etc.).

C. Audit Report (detailed explanation of how audit was completed addressing each of the issues above).

D. Affected contractor and subcontractor information (how affected contractor and subcontractor were informed of potential violations; summary of their response with respect to violations and penalty issues; and any other information considered in determining recommended penalties).

E. Recommended penalties under Labor Code Section 1775(a) and basis for recommendation, including how factors in subsection (a)(2) of Section 1775 were applied to arrive at the recommended amount(s).

ATTACHMENTS

1. Audit Summary (Appendix B)
2. 1st Bid Advertisement Publication
3. Notice of Completion
4. Scope of Work
5. Complaint form(s) and Declarations, if any

Section 2.01 *Send the Request and all Attachments to:*

Division of Labor Standards Enforcement
Bureau of Field Enforcement
Attn.: Regional Manager
300 Oceangate Blvd., No. 850
Long Beach, CA 90802

COPIES OF THIS REQUEST, INCLUDING ALL ATTACHMENTS, SHALL BE SERVED ON THE AFFECTED CONTRACTOR AND AFFECTED SUBCONTRACTOR AT THE SAME TIME THAT IT IS SENT TO THE DIVISION OF LABOR STANDARDS ENFORCEMENT.

ATTACHMENT L

CALIFORNIA LABOR CODE
SECTIONS 1720 - 1861

LABOR CODE
SECTION 1720-1743

1720. (a) As used in this chapter, "public works" means:

(1) Construction, alteration, demolition, installation, or repair work done under contract and paid for in whole or in part out of public funds, except work done directly by any public utility company pursuant to order of the Public Utilities Commission or other public authority. For purposes of this paragraph, "construction" includes work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land surveying work.

(2) Work done for irrigation, utility, reclamation, and improvement districts, and other districts of this type. "Public work" does not include the operation of the irrigation or drainage system of any irrigation or reclamation district, except as used in Section 1778 relating to retaining wages.

(3) Street, sewer, or other improvement work done under the direction and supervision or by the authority of any officer or public body of the state, or of any political subdivision or County thereof, whether the political subdivision or County operates under a freeholder's charter or not.

(4) The laying of carpet done under a building lease-maintenance contract and paid for out of public funds.

(5) The laying of carpet in a public building done under contract and paid for in whole or in part out of public funds.

(6) Public transportation demonstration projects authorized pursuant to Section 143 of the Streets and Highways Code.

(b) For purposes of this section, "paid for in whole or in part out of public funds" means all of the following:

(1) The payment of money or the equivalent of money by the state or political subdivision directly to or on behalf of the public works contractor, subcontractor, or developer.

(2) Performance of construction work by the state or political subdivision in execution of the project.

(3) Transfer by the state or political subdivision of an asset of value for less than fair market price.

(4) Fees, costs, rents, insurance or bond premiums, loans, interest rates, or other obligations that would normally be required in the execution of the contract, that are paid, reduced, charged at less than fair market value, waived, or forgiven by the state or political subdivision.

(5) Money loaned by the state or political subdivision that is to be repaid on a contingent basis.

(6) Credits that are applied by the state or political subdivision against repayment obligations to the state or political subdivision.

(c) Notwithstanding subdivision (b):

(1) Private residential projects built on private property are not subject to the requirements of this chapter unless the projects are built pursuant to an agreement with a state agency, redevelopment agency, or local public housing authority.

(2) If the state or a political subdivision requires a private developer to perform construction, alteration, demolition, installation, or repair work on

a public work of improvement as a condition of regulatory approval of an otherwise private development project, and the state or political subdivision contributes no more money, or the equivalent of money, to the overall project than is required to perform this public improvement work, and the state or political subdivision maintains no proprietary interest in the overall project, then only the public improvement work shall thereby become subject to this chapter.

(3) If the state or a political subdivision reimburses a private developer for costs that would normally be borne by the public, or provides directly or indirectly a public subsidy to a private development project that is de minimis in the context of the project, an otherwise private development project shall not thereby become subject to the requirements of this chapter.

(4) The construction or rehabilitation of affordable housing units for low- or moderate-income persons pursuant to paragraph (5) or (7) of subdivision (e) of Section 33334.2 of the Health and Safety Code that are paid for solely with moneys from a Low and Moderate Income
Housing Fund established pursuant to Section 33334.3 of the Health and Safety Code or that are paid for by a combination of private funds and funds available pursuant to Section 33334.2 or 33334.3 of the Health and Safety Code do not constitute a project that is paid for in whole or in part out of public funds.

(5) "Paid for in whole or in part out of public funds" does not include tax credits provided pursuant to Section 17053.49 or 23649 of the Revenue and Taxation Code.

(6) Unless otherwise required by a public funding program, the construction or rehabilitation of privately owned residential projects is not subject to the requirements of this chapter if one or more of the following conditions are met:

(A) The project is a self-help housing project in which no fewer than 500 hours of construction work associated with the homes are to be performed by the homebuyers.

(B) The project consists of rehabilitation or expansion work associated with a facility operated on a not-for-profit basis as temporary or transitional housing for homeless persons with a total project cost of less than twenty-five thousand dollars ($25,000).

(C) Assistance is provided to a household as either mortgage assistance, down payment assistance, or for the rehabilitation of a single-family home.

(D) The project consists of new construction, or expansion, or rehabilitation work associated with a facility developed by a nonprofit organization to be operated on a not-for-profit basis to provide emergency or transitional shelter and ancillary services and assistance to homeless adults and children. The nonprofit organization operating the project shall provide, at no profit, not less than 50 percent of the total project cost from nonpublic sources, excluding real property that is transferred or leased. Total project cost includes the value of donated labor, materials, architectural, and engineering services.

(E) The public participation in the project that would otherwise meet the criteria of subdivision (b) is public funding in the form of below-market interest rate loans for a project in which occupancy of at least 40 percent of the units is restricted for at least 20 years, by deed or regulatory agreement, to individuals or families earning no more than 80 percent of the area median income.

(d) Notwithstanding any provision of this section to the contrary, the following projects shall not, solely by reason of this section, be subject to the requirements of this chapter:

(1) Qualified residential rental projects, as defined by Section

142 (d) of the Internal Revenue Code, financed in whole or in part through the issuance of bonds that receive allocation of a portion of the state ceiling pursuant to Chapter 11.8 of Division 1 (commencing with Section 8869.80) of the Government Code on or before December 31, 2003.

(2) Single-family residential projects financed in whole or in part through the issuance of qualified mortgage revenue bonds or qualified veterans' mortgage bonds, as defined by Section 143 of the Internal Revenue Code, or with mortgage credit certificates under a Qualified Mortgage Credit Certificate Program, as defined by Section 25 of the Internal Revenue Code, that receive allocation of a portion of the state ceiling pursuant to Chapter 11.8 of Division 1 (commencing with Section 8869.80) of the Government Code on or before December 31, 2003.

(3) Low-income housing projects that are allocated federal or state low-income housing tax credits pursuant to Section 42 of the Internal Revenue Code, Chapter 3.6 of Division 31 (commencing with Section 50199.4) of the Health and Safety Code, or Section 12206, 17058, or 23610.5 of the Revenue and Taxation Code, on or before December 31, 2003.

(e) If a statute, other than this section, or a regulation, other than a regulation adopted pursuant to this section, or an ordinance or a contract applies this chapter to a project, the exclusions set forth in subdivision (d) do not apply to that project.

(f) For purposes of this section, references to the Internal Revenue Code mean the Internal Revenue Code of 1986, as amended, and include the corresponding predecessor sections of the Internal Revenue Code of 1954, as amended.

(g) The amendments made to this section by either Chapter 938 of the Statutes of 2001 or the act adding this subdivision shall not be construed to preempt local ordinances requiring the payment of prevailing wages on housing projects.

1720.2. For the limited purposes of Article 2 (commencing with Section 1770) of this chapter, "public works" also means any construction work done under private contract when all of the following conditions exist:

(a) The construction contract is between private persons.

(b) The property subject to the construction contract is privately owned, but upon completion of the construction work, more than 50 percent of the assignable square feet of the property is leased to the state or a political subdivision for its use.

(c) Either of the following conditions exist:

(1) The lease agreement between the lessor and the state or political subdivision, as lessee, was entered into prior to the construction contract.

(2) The construction work is performed according to plans, specifications, or criteria furnished by the state or political subdivision, and the lease agreement between the lessor and the state or political subdivision, as lessee, is entered into during, or upon completion of, the construction work.

1720.3. (a) For the limited purposes of Article 2 (commencing with Section 1770), "public works" also means the hauling of refuse from a public works site to an outside disposal location, with respect to contracts involving any state agency, including the California State University and the University of California, or any political subdivision of the state.

(b) For purposes of this section, the "hauling of refuse" includes, but is not limited to, hauling soil, sand, gravel, rocks, concrete, asphalt, excavation materials, and construction debris. The "hauling of refuse" shall not include the hauling of recyclable metals such as copper, steel, and

aluminum that have been separated from other materials at the jobsite prior to transportation and that are to be sold at fair market value to a bona fide purchaser.

1720.4. (a) This chapter shall not apply to any of the following work:

(1) Any work performed by a volunteer. For purposes of this section, "volunteer" means an individual who performs work for civic, charitable, or humanitarian reasons for a public agency or corporation qualified under Section 501(c)(3) of the Internal Revenue Code as a tax-exempt organization, without promise, expectation, or receipt of any compensation for work performed.

(A) An individual shall be considered a volunteer only when his or her services are offered freely and without pressure and coercion, direct or implied, from an employer.

(B) An individual may receive reasonable meals, lodging, transportation, and incidental expenses or nominal nonmonetary awards without losing volunteer status if, in the entire context of the situation, those benefits and payments are not a substitute form of compensation for work performed.

(C) An individual shall not be considered a volunteer if the person is otherwise employed for compensation at any time (i) in the construction, alteration, demolition, installation, repair, or maintenance work on the same project, or (ii) by a contractor, other than a corporation qualified under Section 501(c)(3) of the Internal Revenue Code as a tax-exempt organization, that receives payment to perform construction, alteration, demolition, installation, repair, or maintenance work on the same project.

(2) Any work performed by a volunteer coordinator. For purposes of this section, "volunteer coordinator" means an individual paid by a corporation qualified under Section 501(c)(3) of the Internal Revenue Code as a tax-exempt organization, to oversee or supervise volunteers. An individual may be considered a volunteer coordinator even if the individual performs some non-supervisory work on a project alongside the volunteers, so long as the individual's primary responsibility on the project is to oversee or supervise the volunteers rather than to perform non-supervisory work.

(3) Any work performed by the California Conservation Corps or by Community Conservation Corps certified by the California Conservation Corps pursuant to Section 14507.5 of the Public Resources Code.

(b) This section shall apply retroactively to otherwise covered work concluded on or after January 1, 2002, to the extent permitted by law.

(c) This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2017, deletes or extends that date.

1720.6. For the limited purposes of Article 2 (commencing with Section 1770) of this chapter, "public work" also means any construction, alteration, demolition, installation, or repair work done under private contract when the following conditions exist:

(a) The work is performed in connection with the construction or maintenance of renewable energy generating capacity or energy efficiency improvements.

(b) The work is performed on the property of the state or a political subdivision of the state.

(c) Either of the following conditions exists:

(1) More than 50 percent of the energy generated is purchased or will be purchased by the state or a political subdivision of the state.

(2) The energy efficiency improvements are primarily intended to reduce energy costs that would otherwise be incurred by the state or a political subdivision of the state.

1721. "Political subdivision" includes any county, city, district, public housing authority, or public agency of the state, and assessment or improvement districts.

1722. "Awarding body" or "body awarding the contract" means department, board, authority, officer or agent awarding a contract for public work.

1722.1. For the purposes of this chapter, "contractor" and "subcontractor" include a contractor, subcontractor, licensee, officer, agent, or representative thereof, acting in that capacity, when working on public works pursuant to this article and Article 2 (commencing with Section 1770).

1723. "Worker" includes laborer, worker, or mechanic.

1724. "Locality in which public work is performed" means the county in which the public work is done in cases in which the contract is awarded by the State, and means the limits of the political subdivision on whose behalf the contract is awarded in other cases.

1725. "Alien" means any person who is not a born or fully naturalized citizen of the United States.

1726. (a) The body awarding the contract for public work shall take cognizance of violations of this chapter committed in the course of the execution of the contract, and shall promptly report any suspected violations to the Labor Commissioner.

(b) If the awarding body determines as a result of its own investigation that there has been a violation of this chapter and withholds contract payments, the procedures in Section 1771.6 shall be followed.

(c) A contractor may bring an action in a court of competent jurisdiction to recover from an awarding body the difference between the wages actually paid to an employee and the wages that were required to be paid to an employee under this chapter, any penalties required to be paid under this chapter, and costs and attorney's fees related to this action, if either of the following is true:

(1) The awarding body previously affirmatively represented to the contractor in writing, in the call for bids, or otherwise, that the work to be covered by the bid or contract was not a "public work," as defined in this chapter.

(2) The awarding body received actual written notice from the Department of Industrial Relations that the work to be covered by the bid or contract is a "public work," as defined in this chapter, and failed to disclose that information to the contractor before the bid opening or awarding of the contract.

1727. (a) Before making payments to the contractor of money due under a contract for public work, the awarding body shall withhold and retain there from all amounts required to satisfy any civil wage and penalty assessment issued by the Labor Commissioner under this chapter. The amounts required to satisfy a civil wage and penalty assessment shall not be disbursed by the awarding body until receipt of a final order that is no longer subject to judicial review.

(b) If the awarding body has not retained sufficient money under the contract to satisfy a civil wage and penalty assessment based on a subcontractor's violations, the contractor shall, upon the request of the Labor Commissioner, withhold sufficient money due the subcontractor under the contract to satisfy the assessment and transfer the money to the awarding body. These amounts shall not be disbursed by the awarding body until receipt of a final order that is no longer subject to judicial review.

1728. In cases of contracts with assessment or improvement districts where full payment is made in the form of a single warrant, or other evidence of full payment, after completion and acceptance of the work, the awarding body shall accept from the contractor in cash a sum equal to, and in lieu of, any amount required to be withheld, retained, or forfeited under the provisions of this section, and said awarding body shall then release the final warrant or payment in full.

1729. It shall be lawful for any contractor to withhold from any subcontractor under him sufficient sums to cover any penalties withheld from him by the awarding body on account of the subcontractor's failure to comply with the terms of this chapter, and if payment has already been made to the subcontractor the contractor may recover from him the amount of the penalty or forfeiture in a suit at law.

1734. Any court collecting any fines or penalties under the criminal provisions of this chapter or any of the labor laws pertaining to public works shall as soon as practicable after the receipt thereof deposit same with the county treasurer of the county in which such court is situated. Amounts so deposited shall be paid at least once a month by warrant of the county auditor drawn upon requisition of the judge or clerk of said court, to the State Treasurer for deposit in the General Fund.

1735. A contractor shall not discriminate in the employment of persons upon public works on any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government Code, except as otherwise provided in Section 12940 of the Government Code. Every contractor for public works who violates this section is subject to all the penalties imposed for a violation of this chapter.

1736. During any investigation conducted under this part, the Division of Labor Standards Enforcement shall keep confidential the name of any employee who reports a violation of this chapter and any other information that may identify the employee.

1740. Notwithstanding any other provision of this chapter or any other law of this State, except limitations imposed by the Constitution, the legislative body of a political subdivision which has received or is to receive a loan or grant of funds from the Federal Government or a federal department or agency for public works of that political subdivision, may provide in its call for bids in connection with such public works that all bid specifications and contracts and other procedures in connection with bids or contracts shall be subject to modification to comply with revisions in federal minimum wage schedules without the necessity of republication or duplication of other formal statutory requirements.

1741. (a) If the Labor Commissioner or his or her designee determines after an investigation that there has been a violation of this chapter, the Labor Commissioner shall with reasonable promptness issue a civil wage and penalty assessment to the contractor or subcontractor or both. The assessment shall be in writing and shall describe the nature of the violation and the amount of wages, penalties, and forfeitures due and shall include the basis for the assessment. The assessment shall be served not later than 180 days after the filing of a valid notice of completion in the office of the county recorder in each county in which the public work or some part thereof was performed, or not later than 180 days after acceptance of the public work, whichever occurs last. However, if the assessment is served after the expiration of this 180 day period, but before the expiration of an additional 180 days, and the awarding body has not yet made full payment to the contractor, the assessment is valid up to the amount of the funds retained. Service of the assessment shall be completed pursuant to Section 1013 of the Code of Civil Procedure by first-class and certified mail to the contractor, subcontractor, and awarding body. The assessment shall advise the contractor and subcontractor of the procedure for obtaining review of the assessment. The Labor Commissioner shall, to the extent practicable, ascertain the identity of any bonding company issuing a bond that secures the payment of wages covered by the assessment and any surety on a bond, and shall serve a copy of the assessment by certified mail to the bonding company or surety at the same time service is made to the contractor, subcontractor, and awarding body. However, no bonding company or surety shall be relieved of its responsibilities because it failed to receive notice from the Labor Commissioner.

(b) Interest shall accrue on all due and unpaid wages at the rate described in subdivision (b) of Section 3289 of the Civil Code. The interest shall accrue from the date that the wages were due and payable, as provided in Part 7 (commencing with Section 1720) of Division 2, until the wages are paid.

(c) (1) The Labor Commissioner shall maintain a public list of the names of each contractor and subcontractor who has been found to have committed a willful violation of Section 1775 or to whom a final order, which is no longer subject to judicial review, has been issued.

(2) The list shall include the date of each assessment, the amount of wages and penalties assessed, and the amount collected.

(3) The list shall be updated at least quarterly, and the contractor's or subcontractor's name shall remain on that list until the assessment is satisfied, or for a period of three years beginning from the date of the issuance of the assessment, whichever is later.

1742. (a) An affected contractor or subcontractor may obtain review of a civil wage and penalty assessment under this chapter by transmitting a written request to the office of the Labor Commissioner that appears on the assessment within 60 days after service of the assessment. If no hearing is requested within 60 days after service of the assessment, the assessment shall become final.

(b) Upon receipt of a timely request, a hearing shall be commenced within 90 days before the director, who shall appoint an impartial hearing officer possessing the qualifications of an administrative law judge pursuant to subdivision (b) of Section 11502 of the Government Code. The appointed hearing officer shall be an employee of the department, but shall not be an employee of the Division of Labor Standards Enforcement. The contractor or subcontractor shall be provided an opportunity to review evidence to be utilized by the Labor Commissioner at the hearing within 20 days of the receipt of the written request for a hearing. Any evidence obtained by the

Labor Commissioner subsequent to the 20-day cutoff shall be promptly disclosed to the contractor or subcontractor.

The contractor or subcontractor shall have the burden of proving that the basis for the civil wage and penalty assessment is incorrect. The assessment shall be sufficiently detailed to provide fair notice to the contractor or subcontractor of the issues at the hearing.

Within 45 days of the conclusion of the hearing, the director shall issue a written decision affirming, modifying, or dismissing the assessment. The decision of the director shall consist of a notice of findings, findings, and an order. This decision shall be served on all parties and the awarding body pursuant to Section 1013 of the Code of Civil Procedure by first-class mail at the last known address of the party on file with the Labor Commissioner. Within 15 days of the issuance of the decision, the director may reconsider or modify the decision to correct an error, except that a clerical error may be corrected at any time.

The director shall adopt regulations setting forth procedures for hearings under this subdivision.

(c) An affected contractor or subcontractor may obtain review of the decision of the director by filing a petition for a writ of mandate to the appropriate superior court pursuant to Section 1094.5 of the Code of Civil Procedure within 45 days after service of the decision. If no petition for writ of mandate is filed within 45 days after service of the decision, the order shall become final. If it is claimed in a petition for writ of mandate that the findings are not supported by the evidence, abuse of discretion is established if the court determines that the findings are not supported by substantial evidence in the light of the whole record.

(d) A certified copy of a final order may be filed by the Labor Commissioner in the office of the clerk of the superior court in any county in which the affected contractor or subcontractor has property or has or had a place of business. The clerk, immediately upon the filing, shall enter judgment for the state against the person assessed in the amount shown on the certified order.

(e) A judgment entered pursuant to this section shall bear the same rate of interest and shall have the same effect as other judgments and shall be given the same preference allowed by law on other judgments rendered for claims for taxes. The clerk shall not charge for the service performed by him or her pursuant to this section.

(f) An awarding body that has withheld funds in response to a civil wage and penalty assessment under this chapter shall, upon receipt of a certified copy of a final order that is no longer subject to judicial review, promptly transmit the withheld funds, up to the amount of the certified order, to the Labor Commissioner.

(g) This section shall provide the exclusive method for review of a civil wage and penalty assessment by the Labor Commissioner under this chapter or the decision of an awarding body to withhold contract payments pursuant to Section 1771.5.

1742.1. (a) After 60 days following the service of a civil wage and penalty assessment under Section 1741 or a notice of withholding under subdivision (a) of Section 1771.6, the affected contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment or notice shall be liable for liquidated damages in an amount equal to the wages, or portion thereof, that still remain unpaid. If the assessment or notice subsequently is overturned or modified after administrative or judicial

review, liquidated damages shall be payable only on the wages found to be due and unpaid.

Additionally, if the contractor or subcontractor demonstrates to the satisfaction of the director that he or she had substantial grounds for appealing the assessment or notice with respect to a portion of the unpaid wages covered by the assessment or notice, the director may exercise his or her discretion to waive payment of the liquidated damages with respect to that portion of the unpaid wages. Any liquidated damages shall be distributed to the employee along with the unpaid wages. Section 203.5 shall not apply to claims for prevailing wages under this chapter.

(b) Notwithstanding subdivision (a), there shall be no liability for liquidated damages if the full amount of the assessment or notice, including penalties, has been deposited with the Department of Industrial Relations, within 60 days following service of the assessment or notice, for the department to hold in escrow pending administrative and judicial review. The department shall release such funds, plus any interest earned, at the conclusion of all administrative and judicial review to the persons and entities who are found to be entitled to such funds.

(c) The Labor Commissioner shall, upon receipt of a request from the affected contractor or subcontractor within 30 days following the service of a civil wage and penalty assessment under Section 1741, afford the contractor or subcontractor the opportunity to meet with the Labor Commissioner or his or her designee to attempt to settle a dispute regarding the assessment without the need for formal proceedings. The awarding body shall, upon receipt of a request from the affected contractor or subcontractor within 30 days following the service of a notice of withholding under subdivision (a) of Section 1771.6, afford the contractor or subcontractor the opportunity to meet with the designee of the awarding body to attempt to settle a dispute regarding the notice without the need for formal proceedings. The settlement meeting may be held in person or by telephone and shall take place before the expiration of the 60-day period for seeking administrative review. No evidence of anything said or any admission made for the purpose of, in the course of, or pursuant to, the settlement meeting is admissible or subject to discovery in any administrative or civil proceeding. No writing prepared for the purpose of, in the course of, or pursuant to, the settlement meeting, other than a final settlement agreement, is admissible or subject to discovery in any administrative or civil proceeding. The assessment or notice shall advise the contractor or subcontractor of the opportunity to request a settlement meeting.

(d) This section shall become operative on January 1, 2007.

1743. (a) The contractor and subcontractor shall be jointly and severally liable for all amounts due pursuant to a final order under this chapter or a judgment thereon. The Labor Commissioner shall first exhaust all reasonable remedies to collect the amount due from the subcontractor before pursuing the claim against the contractor.

(b) From the amount collected, the wage claim shall be satisfied prior to the amount being applied to penalties. If insufficient money is recovered to pay each worker in full, the money shall be prorated among all workers.

(c) Wages for workers who cannot be located shall be placed in the Industrial Relations Unpaid Wage Fund and held in trust for the workers pursuant to Section 96.7. Penalties shall be paid into the General Fund.

(d) A final order under this chapter or a judgment thereon shall be binding, with respect to the amount found to be due, on a bonding company issuing a bond that secures the payment of wages and a surety on a bond. The

limitations period of any action on a payment bond shall be tolled pending a final order that is no longer subject to judicial review.

LABOR CODE SECTION 1750

1750. (a) (1) The second lowest bidder, and any person, firm, association, trust, partnership, labor organization, corporation, or other legal entity which has, prior to the letting of the bids on the public works project in question, entered into a contract with the second lowest bidder, that suffers damage as a proximate result of a competitive bid for a public works project, as defined in subdivision (b), not being accepted due to the successful bidder's violation, as evidenced by the conviction of the successful bidder therefore, of any provision of Division 4 (commencing with Section 3200) or of the Unemployment Insurance Code, may bring an action for damages in the appropriate state court against the violating person or legal entity.

(2) There shall be a rebuttable presumption that a successful bidder who has been convicted of a violation of any provision of Division 4 (commencing with Section 3200) of this code or of the Unemployment Insurance Code, or of both, was awarded the bid because that successful bidder was able to lower the bid due to this violation or these violations occurring on the contract for public work awarded by the public agency.

(b) For purposes of this article:

(1) "Public works project" means the construction, repair, remodeling, alteration, conversion, modernization, improvement, rehabilitation, replacement, or renovation of a public building or structure.

(2) "Second lowest bidder" means the second lowest qualified bidder deemed responsive by the public agency awarding the contract for public work.

(3) The "second lowest bidder" and the "successful bidder" may include any person, firm, association, corporation, or other legal entity.

(c) In an action brought pursuant to this section, the court may award costs and reasonable attorney's fees, in an amount to be determined in the court's discretion, to the prevailing party.

(d) For purposes of an action brought pursuant to this section, employee status shall be determined pursuant to Division 4 (commencing with Section 3200) with respect to alleged violations of that division, pursuant to the Unemployment Insurance Code with respect to alleged violations of that code, and pursuant to Section 2750.5 with respect to alleged violations of either Division 4 (commencing with Section 3200) or of the Unemployment Insurance Code.

(e) The right of action established pursuant to this article shall not be construed to diminish rights of action established pursuant to Section 19102 of, and Article 1.8 (commencing with Section 20104.70) of Chapter 1 of Part 3 of Division 2 of, the Public Contract Code.

(f) A second lowest bidder who has been convicted of a violation of any provision of Division 4 (commencing with Section 3200) of the Labor Code or of the Unemployment Insurance Code, or both, within one year prior to filing the bid for public work, and who has failed to take affirmative steps to correct that violation or those violations, is prohibited from taking any action authorized by this section.

LABOR CODE
SECTION 1770-1781

1770. The Director of the Department of Industrial Relations shall determine the general prevailing rate of per diem wages in accordance with the standards set forth in Section 1773, and the director's determination in the matter shall be final except as provided in Section 1773.4. Nothing in this article, however, shall prohibit the payment of more than the general prevailing rate of wages to any workman employed on public work. Nothing in this act shall permit any overtime work in violation of Article 3 of this chapter.

1771. Except for public works projects of one thousand dollars ($1,000) or less, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the public work is performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed as provided in this chapter, shall be paid to all workers employed on public works.

This section is applicable only to work performed under contract, and is not applicable to work carried out by a public agency with its own forces. This section is applicable to contracts let for maintenance work.

1771.2. A joint labor-management committee established pursuant to the federal Labor Management Cooperation Act of 1978 (Section 175a of Title 29 of the United States Code) may bring an action in any court of competent jurisdiction against an employer that fails to pay the prevailing wage to its employees, as required by this article. This action shall be commenced not later than 180 days after the filing of a valid notice of completion in the office of the county recorder in each county in which the public work or some part thereof was performed, or not later than 180 days after acceptance of the public work, whichever last occurs.

1771.3. (a) (1) The Department of Industrial Relations shall monitor and enforce compliance with applicable prevailing wage requirements for any public works project paid for in whole or part out of public funds, within the meaning of subdivision (b) of Section 1720, that are derived from bonds issued by the state, and shall charge each awarding body for the reasonable and directly related costs of monitoring and enforcing compliance with the prevailing wage requirements on each project.

(2) (A) The State Public Works Enforcement Fund is hereby created as a special fund in the State Treasury. All moneys received by the department pursuant to this section shall be deposited in the fund. Notwithstanding Section 13340 of the Government Code, all moneys in the fund shall be continuously appropriated to the Department of Industrial Relations, to monitor and enforce compliance with the applicable prevailing wage requirements on public works projects paid for in whole or part out of public funds, within the meaning of subdivision (b) of Section 1720, that are derived from bonds issued by the state and other projects for which the department provides prevailing wage monitoring and enforcement activities and for which it is to be reimbursed by the awarding body, and shall not be used or borrowed for any other purpose.

(B) Notwithstanding any other law, upon order of the Director of Finance, a loan in the amount of four million three hundred thousand dollars ($4,300,000) shall be provided from the Uninsured Employers Benefit Trust Fund to the State

Public Works Enforcement Fund to meet the startup needs of the Labor Compliance Monitoring Unit.

(3) The Director of Industrial Relations shall adopt regulations implementing this section, specifying the activities, including, but not limited to, monthly review, and audit if appropriate, of payroll records, which the department will undertake to monitor and enforce compliance with applicable prevailing wage requirements on public works projects paid for in whole or part out of public funds, within the meaning of subdivision (b) of Section 1720, that are derived from bonds issued by the state. The department, with the approval of the Director of Finance, shall determine the rate or rates, which the department may from time to time amend, that the department will charge to recover the reasonable and directly related costs of performing the monitoring and enforcement services for public works projects; provided, however, that the amount charged by the department shall not exceed one-fourth of 1 percent of the state bond proceeds used for the public works projects.

(4) The reasonable and directly related costs of monitoring and enforcing compliance with the prevailing wage requirements on a public works project incurred by the department in accordance with this section are payable by the awarding body of the public works project as a cost of construction. Notwithstanding any other provision of law, but subject to any limitations or restrictions of the bond act, the board, commission, department, agency, or official responsible for the allocation of bond proceeds from the bond funds shall consider and provide for amounts in support of the costs when allocating or approving expenditures of bond proceeds for the construction of the authorized project. The awarding body may elect not to receive or expend amounts from bond proceeds to pay the costs of the project; however, such election does not relieve the awarding body from reimbursing the Department of Industrial Relations for monitoring and enforcing prevailing wage requirements on the project pursuant to Section 1771.3 or any other applicable provision of law.

(b) Paragraph (1) of subdivision (a) shall not apply to any contract for a public works project paid for in whole or part out of public funds, within the meaning of subdivision (b) of Section 1720, that are derived from bonds issued by the state if the contract was awarded under any of the following conditions:

(1) The contract was awarded prior to the effective date of implementing regulations adopted by the department pursuant to paragraph (3) of subdivision (a).

(2) The contract was awarded on or after the effective date of the regulations described in paragraph (1), if the awarding body had previously initiated a labor compliance program approved by the department for some or all of its public works projects and had not contracted with a third party to conduct such program, and requests and receives approval from the department to continue to operate its existing labor compliance program for its public works projects paid for in whole or part out of public funds, within the meaning of subdivision (b) of Section 1720, that are derived from bonds issued by the state, in place of the department monitoring and enforcing compliance on projects pursuant to subdivision (a).

(3) The contract is awarded on or after the effective date of the regulations described in paragraph (1), if the awarding body has entered into a collective bargaining agreement that binds all of the contractors performing work on the project and that includes a mechanism for resolving disputes about the payment of wages.

(c) This section shall not apply to public works projects subject to Section 75075 of the Public Resources Code.

1773.1. (a) Per diem wages, when the term is used in this chapter or in any other statute applicable to public works, shall be deemed to include employer payments for the following:

(1) Health and welfare.

(2) Pension.

(3) Vacation.

(4) Travel.

(5) Subsistence.

(6) Apprenticeship or other training programs authorized by Section 3093, so long as the cost of training is reasonably related to the amount of the contributions.

(7) Worker protection and assistance programs or committees established under the federal Labor Management Cooperation Act of 1978 (Section 175a of Title 29 of the United States Code), to the extent that the activities of the programs or committees are directed to the monitoring and enforcement of laws related to public works.

(8) Industry advancement and collective bargaining agreements administrative fees, provided that these payments are required under a collective bargaining agreement pertaining to the particular craft, classification, or type of work within the locality or the nearest labor market area at issue.

(9) Other purposes similar to those specified in paragraphs (1) to (8), inclusive.

(b) Employer payments include all of the following:

(1) The rate of contribution irrevocably made by the employer to a trustee or third person pursuant to a plan, fund, or program.

(2) The rate of actual costs to the employer reasonably anticipated in providing benefits to workers pursuant to an enforceable commitment to carry out a financially responsible plan or program communicated in writing to the workers affected.

(3) Payments to the California Apprenticeship Council pursuant to Section 1777.5.

(c) Employer payments are a credit against the obligation to pay the general prevailing rate of per diem wages. However, no credit shall be granted for benefits required to be provided by other state or federal law. Credits for employer payments also shall not reduce the obligation to pay the hourly straight time or overtime wages found to be prevailing.

(d) The credit for employer payments shall be computed on an annualized basis where the employer seeks credit for employer payments that are higher for public works projects than for private construction performed by the same employer, except where one or more of the following occur:

(1) The employer has an enforceable obligation to make the higher rate of payments on future private construction performed by the employer.

(2) The higher rate of payments is required by a project labor agreement.

(3) The payments are made to the California Apprenticeship Council pursuant to Section 1777.5.

(4) The director determines that annualization would not serve the purposes of this chapter.

(e) (1) For the purpose of determining those per diem wages for contracts, the representative of any craft, classification, or type of worker needed to execute contracts shall file with the Department of Industrial Relations fully executed copies of the collective bargaining agreements for the particular craft, classification, or type of work involved. The collective bargaining agreements shall be filed after their execution and thereafter may be taken into consideration pursuant to Section 1773 whenever filed 30 days prior to the call for bids. If the collective bargaining agreement has not been

formalized, a typescript of the final draft may be filed temporarily, accompanied by a statement under penalty of perjury as to its effective date.

(2) Where a copy of the collective bargaining agreement has previously been filed, fully executed copies of all modifications and extensions of the agreement that affect per diem wages or holidays shall be filed.

(3) The failure to comply with filing requirements of this subdivision shall not be grounds for setting aside a prevailing wage determination if the information taken into consideration is correct.

1773.2. The body awarding any contract for public work, or otherwise undertaking any public work, shall specify in the call for bids for the contract, and in the bid specifications and in the contract itself, what the general rate of per diem wages is for each craft, classification, or type of worker needed to execute the contract.

In lieu of specifying the rate of wages in the call for bids, and in the bid specifications and in the contract itself, the awarding body may, in the call for bids, bid specifications, and contract, include a statement that copies of the prevailing rate of per diem wages are on file at its principal office, which shall be made available to any interested party on request. The awarding body shall also cause a copy of the determination of the director of the prevailing rate of per diem wages to be posted at each job site.

1773.3. An awarding agency whose public works contract falls within the jurisdiction of Section 1771.3, 1771.5, or 1777.5, or any other statute providing for the payment of fees to the Department of Industrial Relations for enforcing prevailing wage requirements on that project, shall, within five days of the award, send a copy of the award to the department. In lieu of responding to any specific request for contract award information, the department my make such information available for public review by posting on its Internet Web site. Within five days of a finding of any discrepancy regarding the ratio of apprentices to journeymen, pursuant to the certificated fixed number of apprentices to journeymen, the awarding agency shall notify the Division of Labor Standards Enforcement.

1773.4. Any prospective bidder or his representative, any representative of any craft, classification or type of workman involved, or the awarding body may, within 20 days after commencement of advertising of the call for bids by the awarding body, file with the Director of Industrial Relations a verified petition to review the determination of any such rate or rates upon the ground that they have not been determined in accordance with the provision of Section 1773 of this code. Within two days thereafter, a copy of such petition shall be filed with the awarding body. The petition shall set forth the facts upon which it is based. The Director of Industrial Relations or his authorized representative shall, upon notice to the petitioner, the awarding body and such other persons as he deems proper, including the recognized collective bargaining representatives for the particular crafts, classifications or types of work involved, institute an investigation or hold a hearing. Within 20 days after the filing of such petition, or within such longer period as agreed upon by the director, the awarding body, and all the interested parties, he shall make a determination and transmit the same in writing to the awarding body and to the interested parties.

Such determination shall be final and shall be the determination of the awarding body. Upon receipt by it of the notice of the filing of such petition the body awarding the contract or authorizing the public work shall extend the closing date for the submission of bids or the starting of work until five

days after the determination of the general prevailing rates of per diem wages pursuant to this section.

Upon the filing of any such petition, notice thereof shall be set forth in the next and all subsequent publications by the awarding body of the call for bids. No other notice need be given to bidders by the awarding body by publication or otherwise. The determination of the director shall be included in the contract.

1773.5. The Director of Industrial Relations may establish rules and regulations for the purpose of carrying out this chapter, including, but not limited to, the responsibilities and duties of awarding bodies under this chapter.

1773.6. If during any quarterly period the Director of Industrial Relations shall determine that there has been a change in any prevailing rate of per diem wages in any locality he shall make such change available to the awarding body and his determination shall be final. Such determination by the Director of Industrial Relations shall not be effective as to any contract for which the notice to bidders has been published.

1773.7. The provisions of Section 11250 of the Government Code shall not be applicable to Sections 1773, 1773.4, and 1773.6.

1773.9. (a) The Director of Industrial Relations shall use the methodology set forth in subdivision (b) to determine the general prevailing rate of per diem wages in the locality in which the public work is to be performed.

(b) The general prevailing rate of per diem wages includes all of the following:

(1) The basic hourly wage rate being paid to a majority of workers engaged in the particular craft, classification, or type of work within the locality and in the nearest labor market area, if a majority of the workers is paid at a single rate. If no single rate is being paid to a majority of the workers, then the single rate being paid to the greatest number of workers, or modal rate, is prevailing. If a modal rate cannot be determined, then the director shall establish an alternative rate, consistent with the methodology for determining the modal rate, by considering the appropriate collective bargaining agreements, federal rates, rates in the nearest labor market area, or other data such as wage survey data.

(2) Other employer payments included in per diem wages pursuant to Section 1773.1 and as included as part of the total hourly wage rate from which the basic hourly wage rate was derived. In the event the total hourly wage rate does not include any employer payments, the director shall establish a prevailing employer payment rate by the same procedure set forth in paragraph (1).

(3) The rate for holiday and overtime work shall be those rates specified in the collective bargaining agreement when the basic hourly rate is based on a collective bargaining agreement rate. In the event the basic hourly rate is not based on a collective bargaining agreement, the rate for holidays and overtime work, if any, included with the prevailing basic hourly rate of pay shall be prevailing.

(c) (1) If the director determines that the general prevailing rate of per diem wages is the rate established by a collective bargaining agreement, and that the collective bargaining agreement contains definite and predetermined changes during its term that will affect the rate adopted, the director shall incorporate those changes into the determination. Predetermined changes that are rescinded prior to their effective date shall not be enforced.

(2) When the director determines that there is a definite and predetermined change in the general prevailing rate of per diem wages as described in paragraph (1), but has not published, at the time of the effective date of the predetermined change, the allocation of the predetermined change as between the basic hourly wage and other employer payments included in per diem wages pursuant to Section 1773.1, a contractor or subcontractor may allocate payments of not less than the amount of the definite and predetermined change to either the basic hourly wage or other employer payments included in per diem wages for up to 60 days following the director's publication of the specific allocation of the predetermined change.

(3) When the director determines that there is a definite and predetermined change in the general prevailing rate of per diem wages as described in paragraph (1), but the allocation of that predetermined change as between the basic hourly wage and other employer payments included in per diem wages pursuant to Section 1773.1 is subsequently altered by the parties to a collective bargaining agreement described in paragraph (1), a contractor or subcontractor may allocate payments of not less than the amount of the definite and predetermined change in accordance with either the originally published allocation or the allocation as altered in the collective bargaining agreement.

1773.11. (a) Notwithstanding any other provision of law and except as otherwise provided by this section, if the state or a political subdivision thereof agrees by contract with a private entity that the private entity's employees receive, in performing that contract, the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work, the director shall, upon a request by the state or the political subdivision, do both of the following:

(1) Determine, as otherwise provided by law, the wage rates for each craft, classification, or type of worker that are needed to execute the contract.

(2) Provide these wage rates to the state or political subdivision that requests them.

(b) This section does not apply to a contract for a public work, as defined in this chapter.

(c) The director shall determine and provide the wage rates described in this section in the order in which the requests for these wage rates were received and regardless of the calendar year in which they were received. If there are more than 20 pending requests in a calendar year, the director shall respond only to the first 20 requests in the order in which they were received. If the director determines that funding is available in any calendar year to determine and provide these wage rates in response to more than 20 requests, the director shall respond to these requests in a manner consistent with this subdivision.

1774. The contractor to whom the contract is awarded, and any subcontractor under him, shall pay not less than the specified prevailing rates of wages to all workmen employed in the execution of the contract.

1775. (a) (1) The contractor and any subcontractor under the contractor shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit not more than two hundred dollars ($200) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rates as determined by the director for the work or craft in which the worker is employed for any public work done under the contract by the contractor or, except as provided in subdivision (b), by any subcontractor under the contractor.

(2) (A) The amount of the penalty shall be determined by the Labor Commissioner based on consideration of both of the following:

(i) Whether the failure of the contractor or subcontractor to pay the correct rate of per diem wages was a good faith mistake and, if so, the error was promptly and voluntarily corrected when brought to the attention of the contractor or subcontractor.

(ii) Whether the contractor or subcontractor has a prior record of failing to meet its prevailing wage obligations.

(B) (i) The penalty may not be less than forty dollars ($40) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, unless the failure of the contractor or subcontractor to pay the correct rate of per diem wages was a good faith mistake and, if so, the error was promptly and voluntarily corrected when brought to the attention of the contractor or subcontractor.

(ii) The penalty may not be less than eighty dollars ($80) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, if the contractor or subcontractor has been assessed penalties within the previous three years for failing to meet its prevailing wage obligations on a separate contract, unless those penalties were subsequently withdrawn or overturned.

(iii) The penalty may not be less than one hundred twenty dollars ($120) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, if the Labor Commissioner determines that the violation was willful, as defined in subdivision (c) of Section 1777.1.

(C) If the amount due under this section is collected from the contractor or subcontractor, any outstanding wage claim under Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 against that contractor or subcontractor shall be satisfied before applying that amount to the penalty imposed on that contractor or subcontractor pursuant to this section.

(D) The determination of the Labor Commissioner as to the amount of the penalty shall be reviewable only for abuse of discretion.

(E) 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, and the body awarding the contract shall cause to be inserted in the contract a stipulation that this section will be complied with.

(b) If a worker employed by a subcontractor on a public works project is not paid the general prevailing rate of per diem wages by the subcontractor, the prime contractor of the project is not liable for any penalties under subdivision (a) 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:

(1) The contract executed between the contractor and the subcontractor for the performance of work on the public works project shall include a copy of the provisions of this section and Sections 1771, 1776, 1777.5, 1813, and 1815.

(2) 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.

(3) Upon becoming aware of the failure of the subcontractor to pay his or her workers the specified prevailing rate of wages, 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.

(4) 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 has paid the specified general prevailing rate of per diem wages to his or her employees on the public works project and any amounts due pursuant to Section 1813.

(c) The Division of Labor Standards Enforcement shall notify the contractor on a public works project within 15 days of the receipt by the Division of Labor Standards Enforcement of a complaint of the failure of a subcontractor on that public works project to pay workers the general prevailing rate of per diem wages.

1776. (a) Each contractor and subcontractor shall keep accurate payroll records, 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 him or her 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:

(1) The information contained in the payroll record is true and correct.

(2) The employer has complied with the requirements of Sections 1771, 1811, and 1815 for any work performed by his or her employees on the public works project.

(b) The payroll records enumerated under subdivision (a) shall be certified and shall be available for inspection at all reasonable hours at the principal office of the contractor on the following basis:

(1) A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or his or her authorized representative on request.

(2) A certified copy of all payroll records enumerated in subdivision (a) shall be made available for inspection or furnished upon request to a representative of the body awarding the contract and the Division of Labor Standards Enforcement of the Department of Industrial Relations.

(3) A certified copy of all payroll records enumerated in subdivision (a) shall be made available upon request by the public for inspection or for copies thereof. However, a request by the public shall be made through either the body awarding the contract or the Division of Labor Standards Enforcement. If the requested payroll records have not been provided pursuant to paragraph (2), the requesting party shall, prior to being provided the records, reimburse the costs of preparation by the contractor, subcontractors, and the entity through which the request was made. The public may not be given access to the records at the principal office of the contractor.

(c) The certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement or shall contain the same information as the forms provided by the division. The payroll records may consist of printouts of payroll data that are maintained as computer records, if the printouts contain the same information as the forms provided by the division and the printouts are verified in the manner specified in subdivision (a).

(d) A contractor or subcontractor shall file a certified copy of the records enumerated in subdivision (a) with the entity that requested the records within 10 days after receipt of a written request.

(e) Except as provided in subdivision (f), any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the awarding body or the Division of Labor Standards Enforcement shall be marked or obliterated to prevent disclosure of an individual's name, address, and social security number. The name and address

of the contractor awarded the contract or the subcontractor performing the contract shall not be marked or obliterated. Any copy of records made available for inspection by, or furnished to, a joint labor-management committee established pursuant to the federal Labor Management Cooperation Act of 1978 (29 U.S.C. Sec. 175a) shall be marked or obliterated only to prevent disclosure of an individual's name and social security number. A joint labor management committee may maintain an action in a court of competent jurisdiction against an employer who fails to comply with Section 1774. The court may award restitution to an employee for unpaid wages and may award the joint labor management committee reasonable attorney's fees and costs incurred in maintaining the action. An action under this subdivision may not be based on the employer's misclassification of the craft of a worker on its certified payroll records. Nothing in this subdivision limits any other available remedies for a violation of this chapter.

(f) (1) Notwithstanding any other provision of law, agencies that are included in the Joint Enforcement Strike Force on the Underground Economy established pursuant to Section 329 of the Unemployment Insurance Code and other law enforcement agencies investigating violations of law shall, upon request, be provided non-redacted copies of certified payroll records. Any copies of records or certified payroll made available for inspection and furnished upon request to the public by an agency included in the Joint Enforcement Strike Force on the Underground Economy or to a law enforcement agency investigating a violation of law shall be marked or redacted to prevent disclosure of an individual's name, address, and social security number.

(2) An employer shall not be liable for damages in a civil action for any reasonable act or omission taken in good faith in compliance with this subdivision.

(g) The contractor shall inform the body awarding the contract of the location of the records enumerated under subdivision (a), including the street address, city, and county, and shall, within five working days, provide a notice of a change of location and address.

(h) The contractor or subcontractor has 10 days in which to comply subsequent to receipt of a written notice requesting the records enumerated in subdivision (a). In the event that the contractor or subcontractor fails to comply within the 10-day period, he or she shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit one hundred dollars
($100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Labor Standards Enforcement, these penalties shall be withheld from progress payments then due. A contractor is not subject to a penalty assessment pursuant to this section due to the failure of a subcontractor to comply with this section.

(i) The body awarding the contract shall cause to be inserted in the contract stipulations to effectuate this section.

(j) The director shall adopt rules consistent with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and the Information Practices Act of 1977 (Title 1.8 (commencing with Section 1798) of Part 4 of Division 3 of the Civil Code) governing the release of these records, including the establishment of reasonable fees to be charged for reproducing copies of records required by this section.

1777. Any officer, agent, or representative of the State or of any political subdivision who willfully violates any provision of this article, and any contractor, or subcontractor, or agent or representative thereof, doing public

work who neglects to comply with any provision of section 1776 is guilty of a misdemeanor.

1777.1. (a) Whenever a contractor or subcontractor performing a public works project pursuant to this chapter is found by the Labor Commissioner to be in violation of this chapter with intent to defraud, except Section 1777.5, the contractor or subcontractor or a firm, corporation, partnership, or association in which the contractor or subcontractor has any interest is ineligible for a period of not less than one year or more than three years to do either of the following:

(1) Bid on or be awarded a contract for a public works project.

(2) Perform work as a subcontractor on a public works project.

(b) Whenever a contractor or subcontractor performing a public works project pursuant to this chapter is found by the Labor Commissioner to have committed two or more separate willful violations of this chapter, except Section 1777.5, within a three-year period, the contractor or subcontractor or a firm, corporation, partnership, or association in which the contractor or subcontractor has any interest is ineligible for a period up to three years to do either of the following:

(1) Bid on or be awarded a contract for a public works project.

(2) Perform work as a subcontractor on a public works project.

(c) Whenever a contractor or subcontractor performing a public works project has failed to provide a timely response to a request by the Division of Labor Standards Enforcement, the Division of Apprenticeship Standards, or the awarding body to produce certified payroll records pursuant to Section 1776, the Labor Commissioner shall notify the contractor or subcontractor that, in addition to any other penalties provided by law, the contractor or subcontractor will be subject to debarment under this section if the certified payroll records are not produced within 30 days after receipt of the written notice. If the commissioner finds that the contractor or subcontractor has failed to comply with Section 1776 by that deadline, unless the commissioner finds that the failure to comply was due to circumstances outside the contractor's or subcontractor's control, the contractor or subcontractor or a firm, corporation, partnership, or association in which the contractor or subcontractor has any interest is ineligible for a period of not less than one year and not more than three years to do either of the following:

(1) Bid on or be awarded a contract for a public works project.

(2) Perform work as a subcontractor on a public works project.

(d) A willful violation occurs when the contractor or subcontractor knew or reasonably should have known of his or her obligations under the public works law and deliberately fails or refuses to comply with its provisions.

(e) The Labor Commissioner shall publish on the commissioner's Internet Web site a list of contractors who are ineligible to bid on or be awarded a public works contract, or to perform work as a subcontractor on a public works project pursuant to this chapter. The list shall contain the name of the contractor, the Contractors' State License Board license number of the contractor, and the effective period of debarment of the contractor. Contractors shall be added to the list upon issuance of a debarment order and the commissioner shall also notify the Contractors' State License Board when the list is updated. At least annually, the commissioner shall notify awarding bodies of the availability of the list of debarred contractors. The commissioner shall also place advertisements in construction industry publications targeted to the contractors and subcontractors, chosen by the commissioner, that state the effective period of the debarment and the reason for debarment. The advertisements shall appear one time for each debarment of a contractor in each publication chosen by the commissioner. The debarred

contractor or subcontractor shall be liable to the commissioner for the reasonable cost of the advertisements, not to exceed five thousand dollars ($5,000). The amount paid to the commissioner for the advertisements shall be credited against the contractor's or subcontractor's obligation to pay civil fines or penalties for the same willful violation of this chapter.

(f) For purposes of this section, "contractor or subcontractor" means a firm, corporation, partnership, or association and its responsible managing officer, as well as any supervisors, managers, and officers found by the Labor Commissioner to be personally and substantially responsible for the willful violation of this chapter.

(g) For the purposes of this section, the term "any interest" means an interest in the entity bidding or performing work on the public works project, whether as an owner, partner, officer, manager, employee, agent, consultant, or representative. "Any interest" includes, but is not limited to, all instances where the debarred contractor or subcontractor receives payments, whether cash or any other form of compensation, from any entity bidding or performing work on the public works project, or enters into any contracts or agreements with the entity bidding or performing work on the public works project for services performed or to be performed for contracts that have been or will be assigned or sublet, or for vehicles, tools, equipment, or supplies that have been or will be sold, rented, or leased during the period from the initiation of the debarment proceedings until the end of the term of the debarment period. "Any interest" does not include shares held in a publicly traded corporation if the shares were not received as compensation after the initiation of debarment from an entity bidding or performing work on a public works project.

(h) For the purposes of this section, the term "entity" is defined as a company, limited liability company, association, partnership, sole proprietorship, limited liability partnership, corporation, business trust, or organization.

(i) The Labor Commissioner shall adopt rules and regulations for the administration and enforcement of this section.

1777.5. (a) Nothing in this chapter shall prevent the employment of properly registered apprentices upon public works.

(b) Every apprentice employed upon public works shall be paid the prevailing rate of per diem wages for apprentices in the trade to which he or she is registered and shall be employed only at the work of the craft or trade to which he or she is registered.

(c) Only apprentices, as defined in Section 3077, who are in training under apprenticeship standards that have been approved by the Chief of the Division of Apprenticeship Standards and who are parties to written apprentice agreements under Chapter 4 (commencing with Section 3070) of Division 3 are eligible to be employed at the apprentice wage rate on public works. The employment and training of each apprentice shall be in accordance with either of the following:

(1) The apprenticeship standards and apprentice agreements under which he or she is training.

(2) The rules and regulations of the California Apprenticeship Council.

(d) When the contractor to whom the contract is awarded by the state or any political subdivision, in performing any of the work under the contract, employs workers in any apprenticeable craft or trade, the contractor shall employ apprentices in at least the ratio set forth in this section and may apply to any apprenticeship program in the craft or trade that can provide apprentices to the site of the public work for a certificate approving the contractor under the apprenticeship standards for the employment and training

of apprentices in the area or industry affected. However, the decision of the apprenticeship program to approve or deny a certificate shall be subject to review by the Administrator of Apprenticeship. The apprenticeship program or programs, upon approving the contractor, shall arrange for the dispatch of apprentices to the contractor. A contractor covered by an apprenticeship program's standards shall not be required to submit any additional application in order to include additional public works contracts under that program. "Apprenticeable craft or trade," as used in this section, means a craft or trade determined as an apprenticeable occupation in accordance with rules and regulations prescribed by the California Apprenticeship Council. As used in this section, "contractor" includes any subcontractor under a contractor who performs any public works not excluded by subdivision (o).

(e) Prior to commencing work on a contract for public works, every contractor shall submit contract award information to an applicable apprenticeship program that can supply apprentices to the site of the public work. The information submitted shall include an estimate of journeyman hours to be performed under the contract, the number of apprentices proposed to be employed, and the approximate dates the apprentices would be employed. A copy of this information shall also be submitted to the awarding body if requested by the awarding body. Within 60 days after concluding work on the contract, each contractor and subcontractor shall submit to the awarding body, if requested, and to the apprenticeship program a verified statement of the journeyman and apprentice hours performed on the contract. The information under this subdivision shall be public. The apprenticeship programs shall retain this information for 12 months.

(f) The apprenticeship program that can supply apprentices to the area of the site of the public work shall ensure equal employment and affirmative action in apprenticeship for women and minorities.

(g) The ratio of work performed by apprentices to journeymen employed in a particular craft or trade on the public work may be no higher than the ratio stipulated in the apprenticeship standards under which the apprenticeship program operates where the contractor agrees to be bound by those standards, but, except as otherwise provided in this section, in no case shall the ratio be less than one hour of apprentice work for every five hours of journeyman work.

(h) This ratio of apprentice work to journeyman work shall apply during any day or portion of a day when any journeyman is employed at the jobsite and shall be computed on the basis of the hours worked during the day by journeymen so employed. Any work performed by a journeyman in excess of eight hours per day or 40 hours per week shall not be used to calculate the ratio. The contractor shall employ apprentices for the number of hours computed as above before the end of the contract or, in the case of a subcontractor, before the end of the subcontract. However, the contractor shall endeavor, to the greatest extent possible, to employ apprentices during the same time period that the journeymen in the same craft or trade are employed at the jobsite. Where an hourly apprenticeship ratio is not feasible for a particular craft or trade, the Administrator of Apprenticeship, upon application of an apprenticeship program, may order a minimum ratio of not less than one apprentice for each five journeymen in a craft or trade classification.

(i) A contractor covered by this section that has agreed to be covered by an apprenticeship program's standards upon the issuance of the approval certificate, or that has been previously approved for an apprenticeship program in the craft or trade, shall employ the number of apprentices or the ratio of apprentices to journeymen stipulated in the applicable apprenticeship standards, but in no event less than the 1-to-5 ratio required by subdivision (g).

(j) Upon proper showing by a contractor that he or she employs apprentices in a particular craft or trade in the state on all of his or her contracts on an annual average of not less than one hour of apprentice work for every five hours of labor performed by journeymen, the Administrator of Apprenticeship may grant a certificate exempting the contractor from the 1-to-5 hourly ratio, as set forth in this section for that craft or trade.

(k) An apprenticeship program has the discretion to grant to a participating contractor or contractor association a certificate, which shall be subject to the approval of the Administrator of Apprenticeship, exempting the contractor from the 1-to-5 ratio set forth in this section when it finds that any one of the following conditions is met:

(1) Unemployment for the previous three-month period in the area exceeds an average of 15 percent.

(2) The number of apprentices in training in the area exceeds a ratio of 1 to 5.

(3) There is a showing that the apprenticeable craft or trade is replacing at least one-thirtieth of its journeymen annually through apprenticeship training, either on a statewide basis or on a local basis.

(4) Assignment of an apprentice to any work performed under a public works contract would create a condition that would jeopardize his or her life or the life, safety, or property of fellow employees or the public at large, or the specific task to which the apprentice is to be assigned is of a nature that training cannot be provided by a journeyman.

(l) When an exemption is granted pursuant to subdivision (k) to an organization that represents contractors in a specific trade from the 1-to-5 ratio on a local or statewide basis, the member contractors shall not be required to submit individual applications for approval to local joint apprenticeship committees, if they are already covered by the local apprenticeship standards.

(m) (1) A contractor to whom a contract is awarded, who, in performing any of the work under the contract, employs journeymen or apprentices in any apprenticeable craft or trade shall contribute to the California Apprenticeship Council the same amount that the director determines is the prevailing amount of apprenticeship training contributions in the area of the public works site. A contractor may take as a credit for payments to the council any amounts paid by the contractor to an approved apprenticeship program that can supply apprentices to the site of the public works project. The contractor may add the amount of the contributions in computing his or her bid for the contract.

(2) At the conclusion of the 2002-03 fiscal year and each fiscal year thereafter, the California Apprenticeship Council shall distribute training contributions received by the council under this subdivision, less the expenses of the Department of Industrial Relations for administering this subdivision, by making grants to approved apprenticeship programs for the purpose of training apprentices. The funds shall be distributed as follows:

(A) If there is an approved multiemployer apprenticeship program serving the same craft or trade and geographic area for which the training contributions were made to the council, a grant to that program shall be made.

(B) If there are two or more approved multiemployer apprenticeship programs serving the same craft or trade and geographic area for which the training contributions were made to the council, the grant shall be divided among those programs based on the number of apprentices registered in each program.

(C) All training contributions not distributed under subparagraphs (A) and (B) shall be used to defray the future expenses of the Department of Industrial Relations for the administration and enforcement of apprenticeship standards and requirements under this code.

(3) All training contributions received pursuant to this subdivision shall be deposited in the Apprenticeship Training Contribution Fund, which is hereby created in the State Treasury. Upon appropriation by the Legislature, all moneys in the Apprenticeship Training Contribution Fund shall be used for the purpose of carrying out this subdivision and to pay the expenses of the Department of Industrial Relations.

(n) The body awarding the contract shall cause to be inserted in the contract stipulations to effectuate this section. The stipulations shall fix the responsibility of compliance with this section for all apprenticeable occupations with the prime contractor.

(o) This section does not apply to contracts of general contractors or to contracts of specialty contractors not bidding for work through a general or prime contractor when the contracts of general contractors or those specialty contractors involve less than thirty thousand dollars ($30,000).

(p) An awarding body that implements an approved labor compliance program in accordance with subdivision (b) of Section 1771.5 may, with the approval of the director, assist in the enforcement of this section under the terms and conditions prescribed by the director.

1777.6. An employer or a labor union shall not refuse to accept otherwise qualified employees as registered apprentices on any public works on any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government Code, except as provided in Section 3077 of this code and Section 12940 of the Government Code.

1777.7. (a) (1) A contractor or subcontractor that is determined by the Labor Commissioner to have knowingly violated Section 1777.5 shall forfeit as a civil penalty an amount not exceeding one hundred dollars ($100) for each full calendar day of noncompliance. The amount of this penalty may be reduced by the Labor Commissioner if the amount of the penalty would be disproportionate to the severity of the violation. A contractor or subcontractor that knowingly commits a second or subsequent violation of Section 1777.5 within a three-year period, where the noncompliance results in apprenticeship training not being provided as required by this chapter, shall forfeit as a civil penalty the sum of not more than three hundred dollars ($300) for each full calendar day of noncompliance. Notwithstanding Section 1727, upon receipt of a determination that a civil penalty has been imposed by the Labor Commissioner, the awarding body shall withhold the amount of the civil penalty from contract progress payments then due or to become due.

(2) In lieu of the penalty provided for in this subdivision, the Labor Commissioner may, for a first-time violation and with the concurrence of an apprenticeship program described in subdivision (d), order the contractor or subcontractor to provide apprentice employment equivalent to the work hours that would have been provided for apprentices during the period of noncompliance.

(b) In the event a contractor or subcontractor is determined by the Labor Commissioner to have knowingly committed a serious violation of any provision of Section 1777.5, the Labor Commissioner may also deny to the contractor or subcontractor, and to its responsible officers, the right to bid on or be awarded or perform work as a subcontractor on any public works contract for a period of up to one year for the first violation and for a period of up to three years for a second or subsequent violation. Each period of debarment shall run from the date the determination of noncompliance by the Labor Commissioner becomes a final order.

(c) (1) An affected contractor, subcontractor, or responsible officer may obtain a review of the determination of the Labor Commissioner imposing the debarment or civil penalty by transmitting a written request to the office of the Labor Commissioner that appears on the determination within 60 days after service of the determination of debarment or civil penalty. If no hearing is requested within 60 days after service of the determination, the determination shall become final.

(2) The provisions of Section 1742 shall apply to the review of any determination issued pursuant to subdivision (a) or (b), subject to the following:

(A) The provisions of Section 1742 and any regulations implementing that section shall apply to a responsible officer who requests review of a determination under this section to the same extent as any affected contractor or subcontractor who requests review.

(B) In the review of a determination under this section, the affected contractor, subcontractor, or responsible officer shall have the burden of providing evidence of compliance with Section 1777.5.

(3) For purposes of this section, a determination issued pursuant to subdivision (a) or (b) includes a determination that has been approved by the Labor Commissioner and issued by an awarding body that has been authorized to assist the director in the enforcement of Section 1777.5 pursuant to subdivision (p) of that section. The Labor Commissioner shall have the right to intervene in any proceeding for review of a determination issued by an awarding body. If the involvement of the Labor Commissioner in a labor compliance program enforcement action is limited to a review of the determination and the matter is resolved without litigation by or against the Labor Commissioner or the department, the awarding body shall enforce any applicable penalties, as specified in this section, and shall deposit any penalties and forfeitures collected in the General Fund.

(4) The Labor Commissioner may certify a copy of the final order of the Director of Industrial Relations and file it with the clerk of the superior court in any county in which the affected contractor or subcontractor has property or has or had a place of business. The clerk, immediately upon the filing, shall enter judgment for the state against the person assessed in the amount shown on the certified order. A judgment entered pursuant to this section shall bear the same rate of interest and shall have the same effect as other judgments and be given the same preference allowed by the law on other judgments rendered for claims for taxes. The clerk shall not charge for the service performed by him or her pursuant to this section. An awarding body that has withheld funds in response to a determination imposing a penalty under this section shall, upon receipt of a certified copy of a final order that is no longer subject to judicial review, promptly transmit the withheld funds, up to the amount of the certified order, to the Labor Commissioner.

(d) If a subcontractor is found to have violated Section 1777.5, the prime contractor of the project is not liable for any penalties under subdivision (a), unless the prime contractor had knowledge of the subcontractor's failure to comply with the provisions of Section 1777.5 or unless the prime contractor fails to comply with any of the following requirements:

(1) The contract executed between the contractor and the subcontractor or the performance of work on the public works project shall include a copy of the provisions of Sections 1771, 1775, 1776, 1777.5, 1813, and 1815.

(2) The contractor shall continually monitor a subcontractor's use of apprentices required to be employed on the public works project pursuant to subdivision (d) of Section 1777.5, including, but not limited to, periodic review of the certified payroll of the subcontractor.

(3) Upon becoming aware of a failure of the subcontractor to employ the required number of apprentices, the contractor shall take corrective action, including, but not limited to, retaining funds due the subcontractor for work performed on the public works project until the failure is corrected.

(4) Prior to making the final payment to the subcontractor for work performed on the public works project, the contractor shall obtain a declaration signed under penalty of perjury from the subcontractor that the subcontractor has employed the required number of apprentices on the public works project.

(e) Any funds withheld by the awarding body pursuant to this section shall be deposited in the General Fund if the awarding body is a state entity, or in the equivalent fund of an awarding body if the awarding body is an entity other than the state.

(f) (1) The Labor Commissioner shall consider, in setting the amount of a monetary penalty, in determining whether a violation is serious, and in determining whether and for how long a party should be debarred for violating this section, all of the following circumstances:

(A) Whether the violation was intentional.

(B) Whether the party has committed other violations of Section 1777.5.

(C) Whether, upon notice of the violation, the party took steps to voluntarily remedy the violation.

(D) Whether, and to what extent, the violation resulted in lost training opportunities for apprentices.

(E) Whether, and to what extent, the violation otherwise harmed apprentices or apprenticeship programs.

(2) If a party seeks review of a decision by the Labor Commissioner to impose a monetary penalty or period of debarment, the Director of Industrial Relations shall decide de novo the appropriate penalty, by considering the same factors set forth above.

(g) The interpretation of Section 1777.5 and the substantive requirements of this section, including the limitations period for issuing a determination under subdivision (a) or (b), shall be in accordance with the regulations of the California Apprenticeship Council. The Director of Industrial Relations may adopt regulations to establish guidelines for the imposition of monetary penalties and periods of debarment and may designate precedential decisions under Section 11425.60 of the Government Code.

1778. Every person, who individually or as a representative of an awarding or public body or officer, or as a contractor or subcontractor doing public work, or agent or officer thereof, who takes, receives, or conspires with another to take or receive, for his own use or the use of any other person any portion of the wages of any workman or working subcontractor, in connection with services rendered upon any public work is guilty of a felony.

1779. Any person or agent or officer thereof who charges, collects, or attempts to charge or collect, directly or indirectly, a fee or valuable consideration for registering any person for public work, or for giving information as to where such employment may be procured, or for placing, assisting in placing, or attempting to place, any person in public work, whether the person is to work directly for the State, or any political subdivision or for a contractor or subcontractor doing public work is guilty of a misdemeanor.

1780. Any person acting on behalf of the State or any political subdivision, or any contractor or subcontractor or agent or representative thereof, doing

any public work who places any order for the employment of a workman on public work where the filling of the order for employment involves the charging of a fee, or the receiving of a valuable consideration from any applicant for employment is guilty of a misdemeanor.

1781. (a) (1) Notwithstanding any other provision of law, a contractor may, subject to paragraphs (2) and (3), bring an action in a court of competent jurisdiction to recover from the body awarding a contract for a public work or otherwise undertaking any public work any increased costs incurred by the contractor as a result of any decision by the body, the Department of Industrial Relations, or a court that classifies, after the time at which the body accepts the contractor's bid or awards the contractor a contract in circumstances where no bid is solicited, the work covered by the bid or contract as a "public work," as defined in this chapter, to which Section 1771 applies, if that body, before the bid opening or awarding of the contract, failed to identify as a "public work," as defined in this chapter, in the bid specification or in the contract documents that portion of the work that the decision classifies as a "public work."

(2) The body awarding a contract for a public work or otherwise undertaking any public work is not liable for increased costs in an action described in paragraph (1) if all of the following conditions are met:

(A) The contractor did not directly submit a bid to, or directly contract with, that body.

(B) The body stated in the contract, agreement, ordinance, or other written arrangement by which it undertook the public work that the work described in paragraph (1) was a "public work," as defined in this chapter, to which Section 1771 applies, and obligated the party with whom the body makes its written arrangement to cause the work described in paragraph (1) to be performed as a "public work."

(C) The body fulfilled all of its duties, if any, under the Civil Code or any other provision of law pertaining to the body providing and maintaining bonds to secure the payment of contractors, including the payment of wages to workers performing the work described in paragraph (1).

(3) If a contractor did not directly submit a bid to, or directly contract with a body awarding a contract for, or otherwise undertaking a public work, the liability of that body in an action commenced by the contractor under subdivision (a) is limited to that portion of a judgment, obtained by that contractor against the body that solicited the contractor's bid or awarded the contract to the contractor, that the contractor is unable to satisfy. For purposes of this paragraph, a contractor may not be deemed to be unable to satisfy any portion of a judgment unless, in addition to other collection measures, the contractor has made a good faith attempt to collect that portion of the judgment against a surety bond, guarantee, or some other form of assurance.

(b) When construction has not commenced at the time a final decision by the Department of Industrial Relations or a court classifies all or part of the work covered by the bid or contract as a "public work," as defined in this chapter, the body that solicited the bid or awarded the contract shall re-bid the "public work" covered by the contract as a "public work," any bid that was submitted and any contract that was executed for this work are null and void, and the contractor may not be compensated for any non-construction work already performed unless the body soliciting the bid or awarding the contract has agreed to compensate the contractor for this work.

(c) For purposes of this section:

(1) "Awarding body" does not include the Department of General Services, the Department of Transportation, or the Department of Water Resources.

(2) "Increased costs" includes, but is not limited to:

(A) Labor cost increases required to be paid to workers who perform or performed work on the "public work" as a result of the events described in subdivision (a).

(B) Penalties for a violation of this article for which the contractor is liable, and which violation is the result of the events described in subdivision (a).

LABOR CODE SECTION 1810-1815

1810. Eight hours labor constitutes a legal day's work in all cases where the same is performed under the authority of any law of this State, or under the direction, or control, or by the authority of any officer of this State acting in his official capacity, or under the direction, or control or by the authority of any municipal corporation, or of any officer thereof. A stipulation to that effect shall be made a part of all contracts to which the State or any municipal corporation therein is a party.

1811. The time of service of any workman employed upon public work is limited and restricted to 8 hours during any one calendar day, and 40 hours during any one calendar week, except as hereinafter provided for under Section 1815.

1812. Every contractor and subcontractor shall keep an accurate record showing the name of and actual hours worked each calendar day and each calendar week by each worker employed by him or her in connection with the public work. The record shall be kept open at all reasonable hours to the inspection of the awarding body and to the Division of Labor Standards Enforcement.

1813. The contractor or subcontractor shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit twenty-five dollars ($25) for each worker employed in the execution of the contract by the respective contractor or subcontractor for each calendar day during which the worker is required or permitted to work more than 8 hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of this article. In awarding any contract for public work, the awarding body shall cause to be inserted in the contract a stipulation to this effect. The awarding body shall take cognizance of all violations of this article committed in the course of the execution of the contract, and shall report them to the Division of Labor Standards Enforcement.

1814. Any officer, agent, or representative of the State or any political subdivision who violates any provision of this article and any contractor or subcontractor or agent or representative thereof doing public work who neglects to comply with any provision of Section 1812 is guilty of a misdemeanor.

1815. Notwithstanding the provisions of Sections 1810 to 1814, inclusive, of this code, and notwithstanding any stipulation inserted in any contract pursuant to the requirements of said sections, work performed by employees of contractors in excess of 8 hours per day, and 40 hours during any one week, shall be permitted upon public work upon compensation for all hours worked in excess of 8 hours per day at not less than 1 1/2 times the basic rate of pay.

LABOR CODE
SECTION 1860-1861

1860. The awarding body shall cause to be inserted in every public works contract a clause providing that, in accordance with the provisions of Section 3700 of the Labor Code, every contractor will be required to secure the payment of compensation to his employees.

1861. Each contractor to whom a public works contract is awarded shall sign and file with the awarding body the following certification prior to performing the work of the contract: "I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract."

ATTACHMENT M

PREVAILING WAGE REGULATIONS
CALIFORNIA CODE OF REGULATIONS

TITLE 8, CHAPTER 8, SUBCHAPTER 3, Article 6
SECTIONS 16400 through 16403

TITLE 8, CHAPTER 8, SUBCHAPTER 4, Article 1
SECTION 16421, Parts (a), 3, 4, 5 & 6; (d), (e)

TITLE 8, CHAPTER 8, SUBCHAPTER 4, Article 3
SECTION 16430
SECTION 16432, Part (f)

TITLE 8, CHAPTER 8, SUBCHAPTER 4, Article 5
SECTION 16434, Part (d)
SECTION 16439, Part (a)

TITLE 8, CHAPTER 8, SUBCHAPTER 6
(SECTIONS 17201 through 17270)

AVAILABLE ON THE DIR WEBSITE OR UPON REQUEST FROM COUNTY OF INYO DEPARTMENT OF PUBLIC WORKS

CALIFORNIA CODE OF REGULATIONS
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§16400. Request for Payroll Records.

(a) Requests may be made by any person for certified copies of payroll records. Requests shall be made to any of the following:

(1) the body awarding the contract, or

(2) any office of the Division of Labor Standards Enforcement, or the Division of Apprenticeship Standards.

(b) Requests for certified copies of payroll records pursuant to Section 1776 of the Labor Code may be made by any person. However, any such request shall be in writing and contain at least the following information:

(1) The body awarding the contract;

(2) The contract number and/or description;

(3) The particular job location if more than one;

(4) The name of the contractor;

(5) The regular business address, if known.

NOTE: Requests for records of more than one contractor of subcontractor must list the information regarding that contractor individually, even if all requests pertain to the same particular public works project. Blanket requests covering an entire public works project will not be accepted; unless contractor and subcontractor responsibilities regarding the project are not clearly defined.

(c) Acknowledgment of Request. The public entity receiving a request for payroll records shall acknowledge receipt of such, and indicate the cost of providing the payroll records based on an estimate by the contractor, subcontractor or public entity. The acknowledgment of the receipt of said request for payroll records may be accomplished by the public entity's furnishing a copy of its written correspondence requesting certified copies of the payroll records sent to the specific contractor pursuant to Section 16400(d) below, to the person who requested said records.

(d) Request to Contractor. The request for copies of payroll records by the requesting public entity shall be in any form and/or method which will assure and evidence receipt thereof. The request shall include the following:

(1) Specify the records to be provided and the form upon which the information is to be provided;

(2) Conspicuous notice of the following:

(A) that the person certifying the copies of the payroll records is, if not the contractor, considered as an agent acting on behalf of the contractor; and

(B) that failure to provide certified copies of the records to the requesting public entity within 10 working days of the receipt of the request will subject the contractor to a penalty of twenty-five ($25.00) dollars per calendar day or portion thereof for each worker until strict compliance is effectuated;

(3) Cost of preparation as provided in Section 16402; and

(4) Provide for inspection.

(e) Inspection of Payroll Records. Inspection of the original payroll records at the office of the contractor(s) pursuant to subdivision (b) of Section 1776 of the Labor Code shall be limited to the public entities upon reasonable written or oral notice.

§16401. Reporting of Payroll Requests.

(a) Reporting Format. The format for reporting of payroll records requested pursuant to Labor Code Section 1776 shall be on a form provided by the public entity. Copies of the forms may be procured at any office of the Division of Labor Standards Enforcement (DLSE) throughout the state and/or:

Division of Labor Statistics & Research P.O. Box 420603 San Francisco, CA 94101

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Acceptance of any other format shall be conditioned upon the requirement that the alternate format contain all of the information required pursuant to Labor Code Section 1776. If, however, the contractor does not comply with the provisions of Labor Code Section 1776, the Labor Commissioner may require the use of DIR's suggested format, "Public Works Payroll Reporting Form" (Form A-1-131).

(b) Words of Certification. The form of certification shall be as follows: I, _____ (Name-print) the undersigned, am _____ (position in business) with the authority to act for and on behalf of _____, (name of business and/or contractor) certify under penalty of perjury that the records or copies thereof submitted and consisting of _____ (description, no. of pages) are the originals or true, full and correct copies of the originals which depict the payroll record(s) of the actual disbursements by way of cash, check, or whatever form to the individual or individuals named. Date:_____ Signature:_____

A public entity may require a more strict and/or more extensive form of certification.

§16402. Cost.

The cost of preparation to each contractor, subcontractor, or public entity when the request was made shall be provided in advance by the person seeking the payroll record. Such cost shall be $1 for the first page of the payroll record and 25 cents for each page thereafter, plus $10 to the contractor or subcontractor for handling costs. Payment in the form of cash, check or certified money order shall be made prior to release of the documents to cover the actual costs of preparation.

§16403. Privacy Considerations.

(a) Records received from the employing contractor shall be kept on file in the office or entity that processed the request for at least 6 months following completion and acceptance of the project. Thereafter, they may be destroyed unless administrative, judicial or other pending litigation, including arbitration, mediation or other methods of dispute resolution, are in process. Copies on file shall not be obliterated in the manner prescribed in subdivision (b) below;

(b) copies provided to the public upon written request shall be marked, obliterated or provided in such a manner that the name, address and Social Security number, and other private information pertaining to each employee cannot be identified. All other information including identification of the contractor shall not be obliterated;

(c) the public entity may affirm or deny that a person(s) was or is employed on a public works contract (by a specific contractor) when asked, so long as the entity requires such information of an identifying nature which will reasonably preclude release of private or confidential information.

§16421. Composition and Components of Labor Compliance Program.

(a) In accordance with Labor Code Section 1771.5(b), a Labor Compliance Program shall include, but not be limited to, the following requirements:

(1) The Call for Bids, Design-Build Request, and the contract or purchase order shall contain appropriate language concerning the requirements of Chapter 1 of Part 7 of Division 2 of the Labor Code.

(2) A pre-job conference shall be conducted before commencement of the work with contractors and subcontractors listed in the bid or who are required to be identified or prequalified in a Design-Build Contract. At the pre-job conference applicable federal and state labor law requirements shall be discussed, and copies of suggested reporting forms furnished. A checklist, showing which federal and state labor law requirements were discussed, shall be kept for each conference. A checklist in the format of Appendix A presumptively meets this requirement.

(3) A requirement that certified payroll records be kept by the contractor in accordance with Labor Code Section 1776 and furnished to the Labor Compliance Program at times designated in the contract, which shall be at least monthly, or within 10 days of any request by the Awarding Body. Use of the current version of DIR's "Public Works Payroll Reporting Form" (A-1-131) and Statement of Employer Payments (PW26) constitute presumptive compliance with the requirement for certified payroll records kept in accordance with Labor Code Section 1776, provided the forms are filled out accurately and completely. These suggested forms are available from the Department of Industrial Relations.

(4) A program for orderly review of payroll records and, if necessary, for audits to verify compliance with the requirements of Chapter 1 of Part 7 of Division 2 of the Labor Code.

(5) A prescribed routine for withholding penalties, forfeitures, and underpayment of wages for violations of the requirements of Chapter 1 of Part 7 of Division 2 of the Labor Code.

(6) All contracts to which prevailing wage requirements apply shall include a provision that contract payments shall not be made when payroll records are delinquent or inadequate.

(d) Nothing in this section or these regulations shall be construed as limiting the responsibility and authority of an Awarding Body to take cognizance of prevailing wage violations under Section 1726 of the Labor Code and take any appropriate action pursuant to and in accordance with that responsibility and authority.

(e) It is the responsibility of a Labor Compliance Program to enforce prevailing wage requirements, consistent with the policy of the state as expressed in Labor Code Section 90.5(a). A Labor Compliance Program shall take reasonable, vigorous, and prompt action to (1) determine whether violations exist, and (2) enforce compliance, including through imposition of appropriate penalties and formal enforcement action, when violations are found. A Labor Compliance Program shall neither avoid use of its enforcement authority based on cost considerations nor

shall it use that authority in an unreasonable manner to gain leverage over a contractor or subcontractor. Unreasonable use of enforcement authority includes, but is not necessarily limited to, prolonged or excessive withholdings of contract payments without making a determination that a violation has occurred.

16430. Filing of Statements of Economic Interest (FPPC Form 700) by Designated Employees and Consultants of Labor Compliance Program.

(a) An Awarding Body that operates either its own labor compliance program or that contracts with a third party to operate all or part of its labor compliance program shall determine and designate those employees and consultants of the program who participate in making governmental decisions for the Awarding Body within the meaning of Title 2, California Code of Regulations, sections 18700 - 18702.4. Those designated employees and consultants shall be required to file Statements of Economic Interest (FPPC Form 700) and to comply with other applicable requirements of the Political Reform Act (commencing with Section 87100 of the Government Code) in connection with work performed on behalf of the Awarding Body.

(b) Designated employees and consultants who operate or are employed by a third party labor compliance program shall file their Statements of Economic Interest (FPPC Form 700) with the filing officer of each Awarding Body with which the third party program contracts, unless the Department of Industrial Relations or the Fair Political Practices Commission specifies a different or alternative filing location.

§16432. Investigation Methods for Labor Compliance Program-Definitions and Minimum Requirements, Including Review, Confirmation and Audits of Payroll Records; On-Site Visits; and Early Resolution of Audits.

(a) The primary function of the Labor Compliance Program is to ensure that public works contractors comply with the prevailing wage requirements found in the Public Works Chapter of the Labor Code. This regulation is intended to establish minimum requirements which all Labor Compliance Programs shall meet or exceed in carrying out that function. Definitions found throughout this regulation are intended to provide Labor Compliance Programs and representatives of the Department of Industrial Relations and the Division of Labor Standards Enforcement with common terminology as they each perform their respective roles in prevailing wage enforcement in furtherance of the Labor Code provisions establishing Labor Compliance Programs. This regulation is also intended to confirm that the proactive investigation methods, as described in detail herein, only comprise the minimum obligations required of Labor Compliance Programs to satisfy their duty to the Director to operate a Labor Compliance Program as specified in sections 16428 and 16434.

(b) Payroll records furnished by contractors and subcontractors in accordance with section 16421(a)(3) above, and in a format prescribed at section 16401 of Title 8 of the California Code of Regulations, shall be reviewed by the Labor Compliance Program as promptly as practicable after receipt thereof, but in no event more than 30 days after such receipt. "Review" for this purpose shall be defined as inspection of the records furnished to determine if (1) all appropriate data elements identified in Labor Code Section 1776(a) have been reported; (2) certification

forms have been completed and signed in compliance with Labor Code Section 1776(b); and (3) the correct prevailing wage rates have been reported as paid for each classification of labor listed thereon, with confirmation of payment in the manner and to the extent described in subpart (c) below.

(c) "Confirmation" of payroll records furnished by contractors and subcontractors shall be defined as an independent corroboration of reported prevailing wage payments. Confirmation may be accomplished through worker interviews, examination of paychecks or paycheck stubs, direct confirmation of payments from third party recipients of "Employer Payments" (as defined at section 16000 of Title 8 of the California Code of Regulations), or any other reasonable method of corroboration. For each month in which a contractor or subcontractor reports having workers employed on the public work, confirmation of furnished payroll records shall be undertaken randomly for at least one worker for at least one weekly period within that month. Confirmation shall also be undertaken whenever complaints from workers or other interested persons or other circumstances or information reasonably suggest to the Labor Compliance Program that payroll records furnished by a contractor or subcontractor are inaccurate.

(d) Representatives of the Labor Compliance Program shall conduct in-person inspections at the site or sites at which the contract for public work is being performed ("On-Site Visits"). On-Site Visits may be undertaken randomly or as deemed necessary by the Labor Compliance Program, but shall be undertaken during each week that workers are present at sites at which the contract for public work is being performed. All On-Site Visits shall include visual inspection of (1) the copy of the determination(s) of the Director of Industrial Relations of the prevailing wage rate of per diem wages required to be posted at each job site in compliance with Labor Code Section 1773.2, and (2) the Notice of Labor Compliance Program Approval required to be posted at the job site in accordance with section 16429 above, listing a telephone number to call for inquiries, questions, or assistance with regard to the Labor Compliance Program. On-Site Visits may include other activities deemed necessary by the Labor Compliance Program to independently corroborate prevailing wage payments reported on payroll records furnished by contractors and subcontractors.

(e) An Audit, as defined herein, shall be prepared by the Labor Compliance Program whenever the Labor Compliance Program has determined that there has been a violation of the Public Works Chapter of the Labor Code resulting in the underpayment of wages. An "Audit" for this purpose shall be defined as a written summary reflecting prevailing wage deficiencies for each underpaid worker, and including any penalties to be assessed under Labor Code Sections 1775 and 1813, as determined by the Labor Compliance Program after consideration of the best information available as to actual hours worked, amounts paid, and classifications of workers employed in connection with the public work. Such available information may include, but is not limited to, worker interviews, complaints from workers or other interested persons, all time cards, cancelled checks, cash receipts, trust fund forms, books, documents, schedules, forms, reports, receipts or other evidences which reflect job assignments, work schedules by days and hours, and the disbursement by way of cash, check, or in whatever form or manner, of funds to a person(s) by job classification and/or skill pursuant to a public works project. An Audit is sufficiently detailed when it enables the Labor Commissioner, if requested to determine the amount of forfeiture under section 16437, to draw reasonable conclusions as to compliance with the

requirements of the Public Works Chapter of the Labor Code, and to enable accurate computation of underpayments of wages to workers and of applicable penalties and forfeitures. An Audit using the forms in Appendix B, when accompanied by a brief narrative identifying the Bid Advertisement Date of the contract for public work and summarizing the nature of the violation and the basis upon which the determination of underpayment was made, presumptively demonstrates sufficiency. Records supporting an Audit shall be maintained by the Labor Compliance Program to satisfy its burden of coming forward with evidence in administrative review proceedings under Labor Code Section 1742 and the Prevailing Wage Hearing Regulations found at sections 17201-17270 of Title 8 of the California Code of Regulations.

(f) After the Labor Compliance Program has determined that violations of the prevailing wage laws have resulted in the underpayment of wages and an audit has been prepared, notification shall be provided to the contractor and affected subcontractor of an opportunity to resolve the wage deficiency prior to a determination of the amount of forfeiture by the Labor Commissioner pursuant to these regulations. The contractor and affected subcontractor shall be provided at least 10 days following such notification to submit exculpatory information consistent with the "good faith mistake" factors set forth in Labor Code Section 1775(a)(2)(A)(i) and (ii). If, based upon the contractor's submission, the Labor Compliance Program reasonably concludes that the failure to pay the correct wages was a good faith mistake, and has no knowledge that the contractor and affected subcontractor have a prior record of failing to meet their prevailing wage obligations, the Labor Compliance Program shall not be required to request the Labor Commissioner for a determination of the amount of penalties to be assessed under Labor Code Section 1775 if the underpayment of wages to workers is promptly corrected and proof of such payment is submitted to the Labor Compliance Program. For each instance in which a wage deficiency is resolved in accordance with this regulation, the Labor Compliance Program shall maintain a written record of the failure of the contractor or subcontractor to meet its prevailing wage obligation. The record shall identify the public works project, the contractor or affected subcontractor involved, and the gross amount of wages paid to workers to resolve the prevailing wage deficiency; and the record shall also include a copy of the Audit prepared pursuant to subpart (e) above along with any exculpatory information submitted to the Labor Compliance Program by the affected contractor or subcontractor.

§16434. Duties of Labor Compliance Program.

(d) For each public work project subject to a Labor Compliance Program's enforcement of prevailing wage requirements, a separate, written summary of labor compliance activities and relevant facts pertaining to that particular project shall be maintained. That summary shall demonstrate that reasonable and sufficient efforts have been made to enforce prevailing wage requirements consistent with the practice of the Labor Commissioner. Appendix C following this section provides a suggested format for tracking and monitoring enforcement activities. Compliance records for a project shall be retained until the later of (1) at least one year after the acceptance of the public work or five years after the cessation of all labor on a public work that has not been accepted, or (2) one year after a final decision or judgment in any litigation under Labor Code Section 1742. For purposes of this section, a written summary or report includes information maintained electronically, provided that the summary or report can be printed out in hard copy form or is in an electronic format that (1) can be transmitted by e-mail or compact disk

and (2) would be acceptable for the filing of documents in a federal or state court of record within this state.

§16439.Request for Review of a Labor Compliance Program Enforcement Action; Settlement Authority.

(b) A contractor or subcontractor may request a settlement meeting pursuant to Labor Code Section 1742.1(b) and may request review of a Labor Compliance Program enforcement action in accordance with Labor Code Sections 1771.6(b) and 1742 and the regulations found at sections 17201-17270 of Title 8 of the California Code of Regulations. The Labor Compliance Program shall have the rights and responsibilities of the Enforcing Agency (as defined in section 17202(f) of Title 8 of the California Code of Regulations), in responding to such a request for review, including but not limited to the obligations to serve notices, transmit the Request for Review to the hearing office, and provide an opportunity to review evidence in a timely manner, to participate through counsel in all hearing proceedings, and to meet the burden of establishing prima facie support for the Notice of Withholding of Contract Payments.

(b) If a contractor or subcontractor seeks review of a Labor Compliance Program enforcement action, the Labor Commissioner may intervene to represent the Awarding Body, or to enforce relevant provisions of the Labor Code consistent with the practice of the Labor Commissioner, or both.

(c) Except in cases where the Labor Commissioner has intervened pursuant to subpart (b) above, the Labor Compliance Program shall have the authority to prosecute, settle, or seek the dismissal of any Notice of Withholding of Contract Payments issued pursuant to Labor Code Section 1771.6 and any review proceeding under Labor Code Section 1742, without any further need for approval by the Labor Commissioner. Whenever a Labor Compliance Program settles in whole or in part or seeks and obtains the dismissal of a Notice of Withholding of Contract Payments or a review proceeding under Labor Code Section 1742, the Labor Compliance Program shall document the reasons for the settlement or request for dismissal and shall make that documentation available to the Labor Commissioner upon request.

§ 17201. Scope and Application of Rules.

(a) These Rules govern proceedings for review of civil wage and penalty assessments and the withholding of contract payments under Articles 1 and 2 of Division 2, Part 7, Chapter 1 (commencing with section 1720) of the Labor Code, as well as any notice assessing penalties for noncompliance with payroll record obligations under Labor Code section 1776. The provisions of Labor Code section 1742 and these Rules apply to all such assessments and notices served on a contractor or subcontractor on or after July 1, 2001 and provide the exclusive method for an Affected Contractor or Subcontractor to

obtain review of any such notice or assessment. These Rules also apply to transitional cases in which notices were served but no court action was filed under Labor Code sections 1731-1733 prior to July 1, 2001, in accordance with Section 17270 (Rule 70) below.

(b) These Rules do not govern debarment proceedings under Labor Code section 1777.1, nor proceedings to review determinations with respect to the violation of apprenticeship obligations under Labor Code sections 1777.5 and 1777.7, nor any criminal prosecution.

(c) These Rules do not preclude any remedies otherwise authorized by law to remedy violations of Division 2, Part 7, Chapter 1 of the Labor Code.

(d) For easier reference, individual sections within these prevailing wage hearing regulations are referred to as "Rules" using only their last two digits. For example, this Section 17201 may be referred to as Rule 01.

§ 17202. Definitions.

For the purpose of these Rules:

(a) "Affected Contractor or Subcontractor" means a contractor or subcontractor (as defined under Labor Code section 1722.1) to whom the Labor Commissioner has issued a civil wage and penalty assessment pursuant to Labor Code section 1741, or to whom an Awarding Body has issued a notice of the withholding of contract payments pursuant to Labor Code section 1771.6, or to whom the Labor Commissioner or the Division of Apprentice Standards has issued a notice assessing penalties for noncompliance with payroll record obligations under Labor Code section 1776;

(b) "Assessment" means a civil wage and penalty assessment issued by the Labor Commissioner or his or her designee pursuant to Labor Code section 1741, and it also includes a notice issued by either the Labor Commissioner or the Division of Apprenticeship Standards pursuant to Labor Code section 1776;

(c) "Awarding Body" means an awarding body or body awarding the contract (as defined in Labor Code section 1722) that exercises enforcement authority under Labor Code section 1726 or 1771.5;

(d) "Department" means the Department of Industrial Relations;

(e) "Director" means the Director of the Department of Industrial Relations;

(f) "Enforcing Agency" means the entity which has issued an Assessment or Notice of Withholding of Contract Payments and with which a Request for Review has been filed; i.e., it refers to the Labor Commissioner when review is sought from an Assessment, the Awarding Body when review is sought from a Notice of Withholding of Contract Payments, and the Division of Apprenticeship Standards when review is sought from a notice issued by that agency that assesses penalties under Labor Code section 1776;

(g) "Hearing Officer" means any person appointed by the Director pursuant to Labor Code section 1742(b) to conduct hearings and other proceedings under Labor Code section 1742 and these Rules;

(h) "Joint Labor-Management Committee" means a joint labor-management committee established pursuant to the federal Labor Management Cooperation Act of 1978 (section 175a of Title 29 of the United States Code).

(i) "Labor Commissioner" means the Chief of the Division of Labor Standards Enforcement and includes his or her designee who has been authorized to carry out the Labor Commissioner's functions under Chapter 1, Part 7 of Division 2 (commencing with section 1720) of the Labor Code;

(j) "Party" means an Affected Contractor or Subcontractor who has requested review of either an Assessment or a Notice of Withholding of Contract Payments, the Enforcing Agency that issued the

Assessment or the Notice of Withholding of Contract Payments from which review is sought, and any other Person who has intervened under subparts (a), (b), or (c) of Rule 08 [Section 17208];

(k) "Person" means an individual, partnership, limited liability company, corporation, governmental subdivision or unit of a governmental subdivision, or public or private organization or entity of any character;

(l) "Representative" means a person authorized by a Party to represent that Party in a proceeding before a Hearing Officer or the Director, and includes the Labor Commissioner when the Labor Commissioner has intervened to represent the Awarding Body in a review proceeding pursuant to Labor Code section 1771.6(b).

(m) "Rule" refers to a section within this subchapter 6. The Rule number corresponds to the last two digits of the full section number. (For example, Rule 08 is the same as section 17208.)

(n) "Surety" has the meaning set forth in Civil Code section 2787 and refers to the entity that issues the public works bond provided for in Civil Code sections 3247 and 3248 or any other surety bond that guarantees the payment of wages for labor.

(o) "Working Day" means any day that is not a Saturday, Sunday, or State holiday, as determined with reference to Code of Civil Procedure sections 12(a) and 12(b) and Government Code sections 6700 and 6701.

§ 17203. Computation of Time and Extensions of Time to Respond or Act.

(a) In computing the time within which a right may be exercised or an act is to be performed, the first day shall be excluded and the last day shall be included. If the last day is not a Working Day, the time shall be extended to the next Working Day.

(b) Unless otherwise indicated by proof of service, if the envelope was properly addressed, the mailing date shall be presumed to be: a postmark date imprinted on the envelope by the U.S. Postal Service if first-class postage was prepaid; or the date of delivery to a common carrier promising overnight delivery as shown on the carrier's receipt.

(c) Where service of any notice, decision, pleading or other document is by first class mail, and if within a given number of days after such service, a right may be exercised, or an act is to be performed, the time within which such right may be exercised or act performed is extended five days if the place of address is within the State of California, and 10 days if the place of address is outside the State of California but within the United States. However, this Rule shall not extend the time within which the Director may reconsider or modify a decision to correct an error (other than a clerical error) under Labor Code section 1742(b).

(d) Where service of any notice, pleading, or other document is made by an authorized method other than first class mailing, extensions of time to respond or act shall be calculated in the same manner as provided under section 1013 of the Code of Civil Procedure, unless a different requirement has been specified by the appointed Hearing Officer or by another provision of these Rules.

§ 17204. Appointment of Hearing Officers; Delegation of Appointment Authority to Chief Counsel.

(a) Upon receipt of a Request for Review of an Assessment or of a Notice of Withholding of Contract Payments, the Director, acting through the Chief Counsel (see subpart (c) below), shall appoint an impartial Hearing Officer to conduct the review proceeding.

(b) The appointed Hearing Officer shall be an attorney employed by the Office of the Director - Legal Unit. However, if no attorney employed by the Office of the Director - Legal Unit is available or qualified

to serve in a particular matter, the appointed Hearing Officer may be any attorney or administrative law judge employed by the Department, other than an employee of the Division of Labor Standards Enforcement.

(c) Any person appointed to serve as a Hearing Officer in any matter shall possess at least the minimum qualifications for service as an administrative law judge pursuant to Government Code section 11502(b) and shall be someone who is not precluded from serving under Government Code section 11425.30.

(d) The Director's authority under Labor Code section 1742(b) to appoint an impartial Hearing Officer, is delegated in all cases to the Chief Counsel of the Office of the Director or to the Chief Counsel's designated Assistant or Acting Chief Counsel when the Chief Counsel is unavailable or disqualified from participating in a particular matter. This delegation includes all related authority under Rule 40 [Section 17240] below to appoint a different Hearing Officer to conduct all or any part of a review proceeding as well as the authority to consider and decide or to assign to another Hearing Officer for consideration and decision any motion to disqualify an appointed Hearing Officer.

§ 17205. Authority of Hearing Officers.

(a) In any proceeding assigned for hearing and decision under the provisions of Labor Code section 1742, the appointed Hearing Officer shall have full power, jurisdiction and authority to hold a hearing and ascertain facts for the information of the Director, to hold a prehearing conference, to issue a subpoena and subpoena duces tecum for the attendance of a Person and the production of testimony, books, documents, or other things, to compel the attendance of a Person residing anywhere in the state, to certify official acts, to regulate the course of a hearing, to grant a withdrawal, disposition or amendment, to order a continuance, to approve a stipulation voluntarily entered into by the Parties, to administer oaths and affirmations, to rule on objections, privileges, defenses, and the receipt of relevant and material evidence, to call and examine a Party or witness and introduce into the hearing record documentary or other evidence, to request a Party at any time to state the respective position or supporting theory concerning any fact or issue in the proceeding, to extend the submittal date of any proceeding, to exercise such other and additional authority as is delegated to Hearing Officers under these Rules or by an express written delegation by the Director, and to prepare a recommended decision, including a notice of findings, findings, and an order for approval by the Director.

(b) There shall be no right of appeal to or review by the Director of any decision, order, act, or refusal to act by an appointed Hearing Officer other than through the Director's review of the record in issuing or reconsidering a written decision under Rules 60 [Section 17260] and 61 [Section 17261] below.

§ 17206. Access to Hearing Records.

(a) Hearing case records shall be available for inspection and copying by the public, to the same extent and subject to the same policies and procedures governing other records maintained by the Department. Hearing case records normally will be available for review in the office of the appointed Hearing Officer; provided however, that a case file may be temporarily unavailable when in use by the appointed Hearing Officer or by the Director or his or her designee.

(b) Nothing in this Rule shall authorize the disclosure of any record or exhibit that is required to be kept confidential or is otherwise exempt from disclosure by law or that has been ordered to be kept confidential by an appointed Hearing Officer.

§ 17207. Ex Parte Communications.

(a) Except as provided in this Rule, once a Request for Review is filed, and while the proceeding is pending, there shall be no direct or indirect communication regarding any issue in the proceeding to

the appointed Hearing Officer or the Director, from the Enforcing Agency or any other Party or other interested Person, without notice and the opportunity for all Parties to participate in the communication.

(b) A communication made on the record in the hearing is permissible.

(c) A communication concerning a matter of procedure or practice is presumed to be permissible, unless the topic of the communication appears to the Hearing Officer to be controversial in the context of the specific case. If so, the Hearing Officer shall so inform the other participant and may terminate the communication or continue it until after giving all Parties notice and an opportunity to participate. Any written communication concerning a matter of procedure or practice, and any written response, or a written memorandum identifying the participants and stating the substance of any such oral communication or response, shall be added to the case file so that all Parties have a reasonable opportunity to review it. Unless otherwise provided by statute or these Rules, the appointed Hearing Officer may determine a matter of procedure or practice based upon a permissible ex-parte communication. The term "matters of procedure or practice" shall be liberally construed.

(d) A communication from the Labor Commissioner to the Hearing Officer or the Director which is deemed permissible under Government Code section 11430.30 is permitted only if any such written communication and any written response, or a written memorandum identifying the participants and stating the substance of any such oral communication or response, is added to the case file so that all Parties have a reasonable opportunity to review it.

(e) If the Hearing Officer or the Director receives a communication in violation of this Rule, he or she shall comply with the requirements of Government Code section 11430.50.

(f) To the extent not inconsistent with Labor Code section 1742, the provisions of Article 7 of Chapter 4.5 of Title 2, Division 3, Part 1 (commencing with section 11430.10) of the Government Code governing ex parte communications in administrative adjudication proceedings shall apply to review proceedings conducted under these Rules.

(g) This Rule shall not be construed as prohibiting communications between the Director and the Labor Commissioner or between the Director and any other interested Person on issues or policies of general interest that coincide with issues involved in a pending review proceeding; provided that (1) the communication does not directly or indirectly seek to influence the outcome of any pending proceeding; (2) the communication does not directly or indirectly identify or otherwise refer to any pending proceeding; and (3) the communication does not occur at a time when the Director or the other party to the communication knows that a proceeding in which the other party to the communication is interested is under active consideration by the Director.

§ 17208. Intervention and Participation by Other Interested Persons.

(a) The Labor Commissioner may intervene as a matter of right in any review from a Notice of Withholding of Contract Payments, either as the Representative of the Awarding Body or as an interested third Party.

(b) A bonding company and any Surety on a bond that secures the payment of wages covered by the Assessment or Notice of Withholding of Contract Payments shall be permitted to intervene as a matter of right in any pending review filed by the contractor or subcontractor from the Assessment or Withholding of Contract Payments in question; provided that, intervention is sought at or before the first prehearing conference held pursuant to Rule 31 [Section 17231] below and within either 30 days after the bonding company or Surety was served with a copy of the Assessment or Notice of Withholding of Contract Payments or 30 days after the filing of the Request for Review, whichever is later. Thereafter, any request to intervene by such a bonding company or Surety shall be treated as a motion for permissive participation under subpart (d) of this Rule. A bonding company or Surety shall have the burden of proof with respect to any claim that it did not receive notice of the Assessment or Notice of Withholding of Contract Payments until after the filing of the Request for Review.

(c) The employee(s), labor union, or Joint Labor-Management Committee who filed the formal complaint which led the Enforcing Agency to issue the Assessment or Notice of Withholding of Contract payments shall be permitted to intervene in a pending review filed by the contractor or subcontractor from the Assessment or Withholding of Contract Payments in question; provided that, intervention is sought at or before the first prehearing conference held pursuant to Rule 31 [Section 17231] below and there is no good cause to deny the request. Thereafter, any request to intervene by such employee(s), labor union, or Joint Labor-Management Committee shall be treated as a motion for permissive participation as an interested Person under subpart (d) of this Rule.

(d) Any other Person may move to participate as an interested Person in a proceeding in which that Person claims a substantial interest in the issues or underlying controversy and in which that Person's participation is likely to assist and not hinder or protract the hearing and determination of the case by the Hearing Officer and the Director. Interested Persons who are permitted to participate under this Rule shall not be regarded as Parties to the proceeding for any purpose, but may be provided notices and the opportunity to present arguments under such terms as the Hearing Officer deems appropriate.

(e) Rights to intervene or participate as an interested party are only in accordance with this Rule. Intervention or permissive participation under this Rule shall not expand the scope of issues under review nor shall it extend any rights or interests which have been forfeited as a result of an Affected Contractor or Subcontractor's own failure to file a timely Request for Review. The Hearing Officer may impose conditions on an intervener's or other interested Person's participation in the proceeding, including but not limited to those conditions specified in Government Code § 11440.50(c).

(f) No Person shall be required to seek intervention in a review proceeding as a condition for pursuing any other remedy available to that Person for the enforcement of the prevailing wage requirements of Division 2, Part 7, Chapter 1 (starting with section 1720) of the Labor Code.

§ 17209. Representation at Hearing.

(a) A Party may appear in person or through an authorized Representative, who need not be an attorney at law; however, a Party shall use the form Authorization for Representation by Non-Attorney [8 CCR 17209(b) (New 1/15/02)] to authorize representation by any non-attorney who is not an owner, officer, or managing agent of that Party.

(b) Upon formal notification that a Party is being represented by a particular individual or firm, service of subsequent notices in the matter shall be made on the Representative, either in addition to or instead of the Party, unless and until such authorization is terminated or withdrawn by further written notice. Service upon an authorized Representative shall be effective for all purposes and shall control the determination of any notice period or the running of any time limit for the performance of any acts, regardless of whether or when such notice may also have been served directly on the represented Party.

(c) An authorized Representative shall be deemed to control all matters respecting the interests of the represented Party in the proceedings.

(d) Parties and their Representatives shall have a continuing duty to keep the appointed Hearing Officer and all other Parties to the proceeding informed of their current address and telephone number.

Tabular or graphic material set at this point is not displayable.

§ 17210. Proper Method of Service.

(a) Unless a particular method of service is specifically prescribed by statute or these Rules, service may be made by: (1) personal delivery; (2) priority or first class mailing postage prepaid through the

U. S. Postal Service; (3) any other means authorized under Code of Civil Procedure section 1013; or (4) if authorized by the Hearing Officer pursuant to Rule 11 [Section 17211] below, by facsimile or other electronic means.

(b) Service is complete at the time of personal delivery or mailing, or at the time of transmission as determined under Rule 11 [Section 17211] below.

(c) Proof of service shall be filed with the document and may be made by: (1) affidavit or declaration of service; (2) written statement endorsed upon the document served and signed by the party making the statement; or (3) copy of letter of transmittal.

(d) Service on a Party who has appeared through an attorney or other Representative shall be made upon such attorney or Representative.

(e) In each proceeding, the Hearing Officer shall maintain an official address record which shall contain the names and addresses of all Parties and their Representatives, agents, or attorneys of record. Any change or substitution in such information must be communicated promptly in writing to the Hearing Officer. The official address record may also include the names and addresses of interested Persons who have been permitted to participate under Rule 08(d) [Section 17208].

§ 17211. Filing and Service of Documents by Facsimile or Other Electronic Means.

(a) In individual cases the Hearing Officer may authorize the filing and service of documents by facsimile or by other electronic means, subject to reasonable restrictions on the time of transmission and the page length of any document or group of documents that may be transmitted by facsimile or other electronic means, and subject to any further requirements on the use of cover sheets or the subsequent filing and service of originals or hard copies of documents as the Hearing Officer deems appropriate. Filing and service by facsimile or other electronic means shall not be authorized under terms that substantially disadvantage any Party appearing or participating in the proceeding as a matter of right. A document transmitted by facsimile or other electronic means shall not be considered received until the next Working Day following transmission unless it is transmitted on a Working Day and the entire transmission is completed by no later than 4:00 p.m. Pacific Time.

(b) Filings and service by facsimile or other electronic means shall not authorized or accepted as a substitute for another method of service that is required by statute or these Rules, unless the Party served has expressly waived its right to be served in the required manner.

§ 17212. Administrative Adjudication Bill of Rights.

(a) The provisions of the Administrative Adjudication Bill of Rights found in Article 6 of Chapter 4.5 of Title 2, Division 3, Part 1 (commencing with section 11425.10) of the Government Code shall apply to these review proceedings to the extent not inconsistent with a state or federal statute, a federal regulation, or a court decision which applies specifically to the Department. The enumeration of certain rights in these Rules may expand but shall not be construed as limiting the same or similar provision of the Administrative Adjudication Bill of Rights; nor shall the enumeration of certain rights in these Rules be construed as negating other statutory rights not stated.

(b) Ex parte communications shall be permitted between the appointed Hearing Officer and the Director in accordance with Government Code section 11430.80(b).

(c) The presentation or submission of any written communication by a Party or other interested Person during the course of a review proceeding shall be governed by the requirements of Government Code § 11440.60(b) and (c).

(d) Unless otherwise indicated by express reference within the body of one of these Rules, the provisions of Chapter 5 of Title 2, Division 3, Part 1 (commencing with section 11500) of the Government Code shall not apply to these review proceedings.

§ 17220. Service and Contents of Assessment or Notice of Withholding of Contract Payments.

(a) An Assessment, a Notice of Withholding of Contract Payments, or a notice assessing penalties under Labor Code section 1776 shall be served on the contractor and subcontractor, if applicable, by first class and certified mail pursuant to the requirements of Code of Civil Procedure section 1013. A copy of the notice shall also be served by certified mail on any bonding company issuing a bond that secures the payment of the wages covered by the Assessment or Notice and to any Surety on a bond, if the identities of such companies are known or reasonably ascertainable. The identity of any Surety issuing a bond for the benefit of an Awarding Body as designated obligee, shall be deemed "known or reasonably ascertainable," and the Surety shall be deemed to have received the notice required under this subpart if sent to the address appearing on the face of the bond.

(b) An Assessment or Notice of Withholding of Contract Payments shall be in writing and shall include the following information:

(1) a description of the nature of the violation and basis for the Assessment or Notice; and

(2) the amount of wages, penalties, and forfeitures due, including a specification of amounts that have been or will be withheld from available contract payments, as well as all additional amounts that the Enforcing Agency has determined are due, including the amount of any liquidated damages that potentially may be awarded under Labor Code section 1742.1.

(c) An Assessment or Notice of Withholding of Contract Payments shall also include the following information:

(1) the name and address of the office to whom a Request for Review may be sent;

(2) information on the procedures for obtaining review of the Assessment or Withholding of Contract Payments;

(3) notice of the Opportunity to Request a Settlement Meeting under Rule 21 [Section 17221] below; and

(4) the following statement which shall appear in bold or another type face that makes it stand out from the other text:

Failure by a contractor or subcontractor to submit a timely Request for Review will result in a final order which shall be binding on the contractor and subcontractor, and which shall also be binding, with respect to the amount due, on a bonding company issuing a bond that secures the payment of wages and a surety on a bond. Labor Code section 1743.

§ 17221. Opportunity for Early Settlement.

(a) The Affected Contractor or Subcontractor may, within 30 days following the service of an Assessment or Notice of Withholding of Contract Payments, request a meeting with the Enforcing Agency for the purpose of attempting to settle the dispute regarding the Assessment or Notice.

(b) Upon receipt of a timely written request for a settlement meeting, the Enforcing Agency shall afford the Affected Contractor or Subcontractor a reasonable opportunity to meet for such purpose. The settlement meeting may be held in person or by telephone and shall take place before expiration of the 60-day limit for filing a Request for Review under Rule 22 [Section 17222].

(c) Nothing herein shall preclude the Parties from meeting or attempting to settle a dispute after expiration of the time for making a request or after the filing of a Request for Review.

(d) Neither the making or pendency of a request for a settlement meeting, nor the fact that the Parties have met or have failed or refused to meet as required by this Rule shall serve to extend the time for filing a Request for Review under Rule 22 [Section 17222] below.

(e) No evidence of anything said or any admission made for the purpose of, in the course of, or pursuant to, such a settlement meeting shall be admissible or subject to discovery in any administrative or civil proceeding. No writing prepared for the purpose of, in the course of, or pursuant to, such a settlement meeting, other than a final settlement agreement, shall be admissible or subject to discovery in any administrative or civil proceeding.

§ 17222. Filing of Request for Review.

(a) Any Request for Review of an Assessment or of a Notice of Withholding of Contract Wages shall be transmitted in writing to the Enforcing Agency within 60 days after service of the Assessment or Notice. Failure to request review within 60 days shall result in the Assessment or the Withholding of Contract Wages becoming final and not subject to further review under these Rules.

(b) A Request for Review shall be transmitted to the office of the Enforcing Agency designated on the Assessment or Notice of Withholding of Contract Payments from which review is sought.

(c) A Request for Review shall be deemed filed on the date of mailing, as determined by the U.S. Postal Service postmark date on the envelope or the overnight carrier's receipt in accordance with Rule 03(b) [Section 17203(b)] above, or on the date of receipt by the designated office of the Enforcing Agency, whichever is earlier.

(d) An additional courtesy copy of the Request for Review may be served on the Department by mailing to the address specified in Rule 23 [Section 17223] below at any time on or after the filing of the Request for Review with the Enforcing Agency. The service of a courtesy copy on the Department shall not be effective for invoking the Director's review authority under Labor Code section 1742; however, it may determine the time within which the hearing shall be commenced under Rule 41(a) [Section 17241(a)] below.

(e) A Request for Review either shall clearly identify the Assessment or Notice from which review is sought, including the date of the Assessment or Notice, or it shall include a copy of the Assessment or Notice as an attachment. A Request for Review shall also set forth the basis upon which the Assessment or Notice is being contested. A Request for Review shall be liberally construed in favor of its sufficiency; however, the Hearing Officer may require the Party seeking review to provide a further specification of the issues or claims being contested and a specification of the basis for contesting those matters.

§ 17223. Transmittal of Request for Review to Department.

Within ten (10) days followings its receipt of a Request for Review, the Enforcing Agency shall transmit to the Office of the Director - Legal Unit, the Request for Review and copies of the Assessment or Notice of Withholding of Contract Wages, any Audit Summary that accompanied the Assessment or Notice, and a Proof of Service or other document showing the name and address of any bonding company or Surety entitled to notice under Rule 20(a) [Section 17220(a)] above. The Enforcing Agency shall transmit these items to the following address.

Department of Industrial Relations Office of the Director - Legal Unit Attention: Lead Hearing Officer
P.O. Box 420603 San Francisco, CA 94142-0603

§ 17224. Disclosure of Evidence.

(a) Within ten (10) days following its receipt of a Request for Review, the Enforcing Agency shall also notify the Affected Contractor or Subcontractor of its opportunity and the procedures for reviewing evidence to be utilized by the Enforcing Agency at the hearing on the Request for Review.

(b) An Enforcing Agency shall be deemed to have provided the opportunity to review evidence required by this Rule if it (1) gives the Affected Contractor or Subcontractor the option, at the Affected Contractor or Subcontractor's own expense, to either (A) obtain copies of all such evidence through a commercial copying service or (B) inspect and copy such evidence at the office of the Enforcing Agency during normal business hours; or if (2) the Enforcing Agency at its own expense forwards copies of all such evidence to the Affected Contractor or Subcontractor.

(c) The evidence required to be provided under this Rule shall include the identity of witnesses whose testimony the Enforcing Agency intends to present, either in person at the hearing or by declaration or affidavit. This provision shall not be construed as requiring the Enforcing Agency to prepare or provide any separate listing of witnesses whose identities are disclosed within the written materials made available under subpart (a).

(d) The Enforcing Agency shall make evidence available for review as specified in subparts (a) through (c) within 20 days of its receipt of the Request for Review; provided that, this deadline may be extended by written request or agreement of the Affected Contractor or Subcontractor. The Enforcing Agency's failure to make evidence available for review as required by Labor Code section 1742(b) and this Rule, shall preclude the Enforcing Agency from introducing such evidence in proceedings before the Hearing Officer or the Director.

(e) This Rule shall not preclude the Enforcing Agency from relying upon or presenting any evidence first obtained after the initial disclosure of evidence under subparts (a) through (d), provided that, such evidence is promptly disclosed to the Affected Contractor or Subcontractor. This Rule also shall not preclude the Enforcing Agency from presenting previously undisclosed evidence to rebut new or collateral claims raised by another Party in the proceeding.

§ 17225. Withdrawal of Request for Review; Reinstatement.

(a) An Affected Contractor or Subcontractor may withdraw a Request for Review by written notification at any time before a decision is issued or by oral motion on the hearing record. The Hearing Officer may grant such withdrawal by letter, order or decision served on the Parties.

(b) For good cause, a Request for Review so dismissed may be reinstated by the Hearing Officer or the Director upon a showing that the withdrawal resulted from misinformation given by the Enforcing Agency or otherwise from fraud or coercion. A motion for reinstatement must be filed within 60 days of service of the letter, order or decision granting withdrawal of the Request for Review or, in the event of fraud which could not have been suspected or discovered with the exercise of reasonable diligence, within 60 days of discovery of such fraud. The motion shall be accompanied by a declaration containing a statement that any facts therein are based upon the personal knowledge of the declarant.

(c) Notwithstanding any application or showing made under subpart (b) of this Rule, neither the Hearing Officer nor the Director may reinstate any Request for Review where the underlying Assessment or Withholding of Contract Payments has become final and entered as a court judgment.

§ 17226. Dismissal or Amendment of Assessment or of Notice of Withholding of Contract Payments.

(a) Upon motion to the appointed Hearing Officer, an Enforcing Agency may dismiss or amend an Assessment or Notice of Withholding of Contract Payments as follows:

(1) An Assessment or Notice of Withholding may be dismissed or amended to eliminate or reduce all or part of any claim for wages, damages, or penalties that has been satisfied or that is not warranted under the facts and circumstances of the case or to conform to an order of the Hearing Officer or the Director.

(2) An Assessment or Notice of Withholding may be amended to eliminate a claim for penalties as to the affected contractor upon a determination that the affected contractor is not liable for same under either Labor Code section 1775(b) [subcontractor's failure to pay prevailing rate] or Labor Code section 1776 (g) [failure to comply with request for certified payroll records].

(3) For good cause, an Assessment or Notice of Withholding of Contract Payments may be amended to revise or increase any claim for wages, damages, or penalties based upon a recomputation or the discovery of new evidence subsequent to the issuance of the original Assessment or Notice.

(b) The Hearing Officer shall grant any motion to dismiss or amend an Assessment or Notice of Withholding downward under subparts (a)(1) or (a)(2) absent a showing that such dismissal or amendment will result in the forfeiture of substantial substantive rights of another Party to the proceeding. The Hearing Officer may grant a motion to amend an Assessment or Notice of Withholding upward under subpart (a)(3) under such terms as are just, including where appropriate the extension of an additional opportunity for early settlement under Rule 21 [Section 17221]. Unless the Hearing Officer determines otherwise, an amended Assessment or Notice of Withholding shall be deemed fully controverted without need for filing an additional or amended Request for Review.

§ 17227. Early Disposition of Untimely Assessment, Withholding, or Request for Review.

(a) Upon the application of any Party or upon his or her own motion, the appointed Hearing Officer may issue an Order to Show Cause why an Assessment, a Withholding of Contract Payments, or a Request for Review should not be dismissed as untimely under the relevant statute.

(b) An Order to Show Cause issued under subpart (a) of this Rule shall be served on all Parties who have appeared or been served with any prior notice in the matter and shall provide the Parties with at least 10 days to respond in writing to the Order to Show Cause and an additional 5 days following the service of such responses to reply to any submission by any other Party. Evidence submitted in support or opposition to an Order to Show Cause shall be by affidavit or declaration under penalty of perjury. There shall be no oral hearing on an Order to Show Cause issued under this Rule unless requested by a Party or by the Hearing Officer.

(c) After the time for submitting responses and replies to the Order to Show Cause has passed or after the oral hearing, if any, the Hearing Officer may do one of the following: (1) recommend that the Director issue a decision setting aside the Assessment or Withholding of Contract Payments or dismissing the Request for Review as untimely under the statute; (2) find the Assessment, Withholding, or Request for Review timely and direct that the matter proceed to hearing on the merits; or (3) reserve the timeliness issue for further consideration and determination in connection with the hearing on the merits.

(d) A decision by the Director which sets asides an Assessment or Withholding of Contract Payments or which dismisses a Request for Review as untimely shall be subject to reconsideration and to judicial review in the same manner as any other Final Order or Decision of the Director. A determination by the Hearing Officer that the Assessment, Withholding, or Request for Review was timely or that the timeliness issue should be reserved for further consideration and determination in connection with the hearing on the merits shall not be subject to appeal or review except as part of any reconsideration or appeal from the Decision of the Director made after the hearing on the merits.

§ 17228. Finality of Assessment or of Withholding of Contract Payments When No Timely

Request for Review is Filed; Authority of Awarding Body to Disburse Withheld Funds.

(a) Upon the failure of an Affected Contractor or Subcontractor to file a timely Request for Review under Labor Code section 1742(a) and Rule 22(a) [Section 17222(a)] above, the Assessment or Notice of Withholding of Contract Payments shall become a "final order" as to the Affected Contractor or Subcontractor that the Labor Commissioner may certify and file with the superior court in accordance with Labor Code section 1742(d).

(b) Where an Assessment or Notice of Withholding of Contract Payments has become final as to at least one but not as to every Affected Contractor or Subcontractor, the Awarding Body shall continue to withhold and retain the amounts required to satisfy any wages and penalties at stake in a review proceeding initiated by any other Affected Contractor or Subcontractor until there is a final order in that proceeding that is no longer subject to judicial review.

§ 17229. Finality of Notice of Withholding of Contract Payments; Authority of Awarding Body to Recover Additional Funds.

Where a Notice of Withholding of Contract Payments seeks to recover wages, penalties, or damages in excess of the amounts withheld from available contract payments (see Rule 20(b)(2) [Section 17220(b)(2)] above), an Awarding Body may recover any excess amounts that become or remain due when the Notice of Withholding of Contract Payments has become final under Labor Code section 1771.6. To recover the excess amounts, the Awarding Body shall transmit to the Labor Commissioner the Notice together with any decision of the Director or court that has become final and not subject to further review. The Labor Commissioner in turn shall certify and file the final order with the superior court in accordance with Labor Code section 1742(d).

§ 17230. Scheduling of Hearing; Continuances and Tolling.

(a) The appointed Hearing Officer shall establish the place and time of the hearing on the merits, giving due consideration to the needs of all Parties and the statutory time limits for hearing and deciding the matter. Parties are encouraged to communicate scheduling needs to the Hearing Officer and all other Parties at the earliest opportunity. It shall not be a violation of Rule 07 [Section 17207]'s prohibition on ex parte communications for the Hearing Officer or his or her designee to communicate with Parties individually for purposes of clearing dates and times and proposing locations for the hearing. The Hearing Officer may also conduct a prehearing conference by telephone or any other expeditious means for purposes of establishing the time and place of the hearing.

(b) Once a hearing date is set, a request for a continuance that is not joined in by all other Parties or that is for more than 30 days will not be granted absent a showing of extraordinary circumstances, giving due regard to the potential prejudice to other Parties in the case and other Persons affected by the matter under review. Absent an enforceable waiver (see subpart (d) below), no continuance will be granted nor any proceeding otherwise delayed if doing so is likely to prevent the Hearing Officer from commencing the hearing on the matter within the statutory time limit.

(c) A request for a continuance that is for 30 days or less and is joined by all Parties shall be granted upon a showing of good cause. Notwithstanding subpart (b) above, a unilateral request for a continuance made by the Party who filed the Request for Review shall be granted upon a showing of good cause if the new date for commencing the hearing is no more than 150 days after the date of service of the Assessment or Notice of Withholding of Contract Payments.

(d) If a Party makes or joins in any request that would delay or otherwise extend the time for hearing or deciding a review proceeding beyond any prescribed time limit, such request shall also be deemed a waiver by that Party of that time limit.

(e) The time limits for hearing and deciding a review proceeding shall also be deemed tolled (1) when proceedings are suspended to seek judicial enforcement of a subpoena or other order to compel the attendance, testimony, or production of evidence by a necessary witness; (2) when the proceedings are stayed or enjoined by any court order; (3) between the time that a proceeding is dismissed and then ordered reinstated under Rule 25 [Section 17225] above; (4) upon the order of a court reinstating or requiring rehearing of the merits of a proceeding; or (5) during the pendency of any other cause beyond the Director's direct control (including but not limited to natural disasters, temporary unavailability of a suitable hearing facility, or absence of budget authority) that prevents the Director or any appointed Hearing Officer from carrying out his or her responsibilities under these Rules.

§ 17231. Prehearing Conference.

(a) Upon the application of any Party or upon his or her own motion, the appointed Hearing Officer may conduct a prehearing conference for any purpose that may expedite or assist the preparation of the matter for hearing or the disposition of the Request for Review. The prehearing conference may be conducted by telephone or other means that is convenient to the Hearing Officer and the Parties.

(b) The Hearing Officer shall provide reasonable advance notice of any prehearing conference conducted pursuant to this Rule. The Notice shall advise the Parties of the matters which the Hearing Officer intends to cover in the prehearing conference, but the failure of the Notice to enumerate some matter shall not preclude its discussion or consideration at the conference.

(c) With or without a prehearing conference, the Hearing Officer may issue such procedural Orders as are appropriate for the submission of evidence or briefs and conduct of the hearing, consistent with the substantial rights of the affected Parties.

§ 17232. Consolidation and Severance.

(a) The Hearing Officer may consolidate for hearing and decision any number of proceedings where the facts and circumstances are similar and consolidation will result in conservation of time and expense. Where the Hearing Officer proposes to consolidate proceedings on his or her own motion, the Parties shall be given reasonable notice and an opportunity to object before consolidation is ordered.

(b) The Hearing Officer may sever consolidated proceedings for good cause.

§ 17233. Prehearing Motions; Cut Off Date.

(a) Any motion made in advance of the hearing on the merits, any opposition thereto, and any further reply shall be in writing and directed to the appointed Hearing Officer. No particular format shall be required; however, the following information shall appear prominently on the first page: (1) the case name (i.e., names of the Parties); (2) any assigned case number; (3) the name of the Hearing Officer to whom the paper is being submitted; (4) the identity of the Party submitting the paper; (5) the nature of the relief sought; and (6) the scheduled date, if any, for the hearing on the merits of the Request for Review. The motion shall also include a Proof of Service, as defined in Rule 10 [Section 17210] above, showing that copies have been served on all other Parties to the proceeding.

(b) Prehearing motions shall be served and filed no later than 20 days prior to the hearing on the merits of the Request for Review. Any opposition shall be served and filed no later than 10 days after service of the motion or at least 7 days prior to the hearing on the merits, whichever is earlier. The Hearing Officer may in his or her discretion decide the motion in writing in advance of the hearing on the merits or reserve the matter for further consideration and determination at the hearing on the merits.

(c) There shall be no right to a separate oral hearing on any prehearing motion, except in those instances in which an oral hearing has been specially requested by a Party or the Hearing Officer and in which the enforcement or forfeiture of a fundamental right is at stake. When the Hearing Officer determines that such an oral hearing is necessary or appropriate, it may be conducted by telephone or other manner that is convenient to the Parties.

(d) With the exception of timeliness challenges under Rule 27 [Section 17227], prehearing motions which seek to dispose of a Request for Review or any related claim or defense are disfavored and ordinarily will not be considered prior to the hearing on the merits.

§ 17234. Evidence by Affidavit or Declaration.

(a) At any time 20 or more days prior to commencement of a hearing, a Party may serve upon all other Parties a copy of any affidavit or declaration which the proponent proposes to introduce in evidence, together with a notice as provided in subpart (b). Unless another Party, within 10 days after service of such notice, delivers to the proponent a request to cross-examine the affiant or declarant, the right to cross-examine such affiant or declarant is waived and the affidavit or declaration, if introduced in evidence, shall be given the same effect as if the affiant or declarant had testified in person. If an opportunity to cross-examine an affiant or declarant is not afforded after request therefor is made as herein provided, the affidavit or declaration may be introduced in evidence, but shall be given only the same effect as other hearsay evidence.

(b) The notice referred to in subpart (a) shall be substantially in the following form with the appropriate information inserted in the places enclosed by brackets:

"The accompanying affidavit or declaration of [name of affiant or declarant] will be introduced as evidence at the hearing in [title and other information identifying the proceeding]. [Name of affiant or declarant] will not be called to testify orally, and you will not be entitled to question the affiant or declarant unless you notify [name of the proponent, Representative, agent or attorney] at [address] that you wish to cross-examine the affiant or declarant. Your request must be mailed or delivered to [name of proponent, Representative, agent or attorney] on or before [specify date at least 10 days after anticipated date of service of this notice on the other Parties]."

(c) If a timely request is made to cross-examine an affiant or declarant under this Rule, the burden of producing that witness at the hearing shall be upon the proponent of the witness. If the proponent fails to produce the witness, the affidavit or declaration may be introduced in evidence, but shall be given only the same effect as other hearsay evidence under Rule 44 [Section 17244].

§ 17235. Subpoena and Subpoena Duces Tecum.

(a) Subpoenas and subpoenas duces tecum may be issued for attendance at a hearing and for the production of documents at any reasonable time and place or at a hearing.

(b) Subpoenas and subpoenas duces tecum shall be issued by the Hearing Officer at the request of a Party, or by the attorney of record for a Party, in accordance with sections 1985 to 1985.6, inclusive, of the Code of Civil Procedure. The burden of serving a subpoena that has been issued by the Hearing Officer shall be upon the Party who requested the subpoena.

(c) Service of subpoenas and subpoenas duces tecum, objections thereto, and mileage and witness fees shall be governed by the provisions of Government Code sections 11450.20 through 11450.40.

(d) Subpoenas and subpoenas duces tecum shall be enforceable through the Contempt and Monetary Sanctions provision set forth in Rule 47 [Section 17247] below. A Party aggrieved by the failure or refusal of any witness to obey a subpoena or subpoena duces tecum shall have the burden of showing to the satisfaction of the Hearing Officer that the subpoena or subpoena duces tecum was properly

issued and served and that the testimony or evidence sought was necessary to prove or disprove a significant claim or defense in the proceeding.

§ 17236. Written Notice to Party in Lieu of Subpoena.

(a) In the case of the production of a Party of record in the proceeding or of a Person for whose benefit a proceeding is prosecuted or defended, the service of a subpoena upon any such witness is not required if written notice requesting the witness to attend, with the time and place of the hearing, is served on the attorney of the Party or Person. For purposes of this Rule, a Party of record in the proceeding or Person for whose benefit a proceeding is prosecuted or defended includes an officer, director, or managing agent of any such Party or Person.

(b) Service of written notice to attend under this Rule shall be made in the same manner and subject to the same conditions provided in section 1987 of the Code of Civil Procedure for service of written notice to attend in a civil action or proceeding.

(c) The Hearing Officer shall have authority under Rule 47 [Section 17247] below to sanction a Party who fails or refuses to comply with a written notice to attend that meets the requirements of this Rule and has been timely served in accordance with section 1987 of the Code of Civil Procedure. However, the Hearing Officer may not initiate contempt proceedings against the witness for failing to appear based solely on non-compliance with a written notice to attend served on the Party's attorney. A Party seeking sanctions for another Party's failure or refusal to comply with a written notice to attend shall have the burden of showing to the satisfaction of the Hearing Officer that the written notice to attend was properly issued and timely served and that the testimony or evidence sought was necessary to prove or disprove a significant claim or defense in the proceeding.

§ 17237. Depositions and Other Discovery.

(a) There shall be no right to take oral depositions or obtain any other form of discovery that is not expressly authorized under these Rules.

(b) Oral depositions may be conducted only by stipulation of all Parties to the proceedings or by order of the appointed Hearing Officer upon a showing of substantial good cause. Oral depositions will be permitted only for purposes of obtaining the testimony of witnesses who are likely to be unavailable to testify at the hearing.

(c) Nothing in this Rule shall preclude the use of deposition testimony or other evidence obtained in separate proceedings, if such evidence is otherwise relevant and admissible.

§ 17240. Notice of Appointment of Hearing Officer; Objections.

(a) Notice of the Appointment of a Hearing Officer under Rule 04 [Section 17204] above shall be provided to the Parties as soon as practicable and no later than when the matter is noticed for a prehearing conference or hearing.

(b) The Director may appoint a different Hearing Officer to conduct and hear the review or to conduct and dispose of any preliminary or procedural matter in a given case.

(c) A Party wishing to object to the appointment of a particular Hearing Officer, including for any one or more of the grounds specified in sections 11425.30 and 11425.40 of the Government Code or section 1742(b) of the Labor Code, shall within 10 days after receiving notice of the appointment and no later than the start of any hearing on the merits, whichever is earlier, file a motion to disqualify the appointed Hearing Officer together with a supporting affidavit or declaration. The motion shall be filed with the Chief Counsel of the Office of the Director at the address indicated in Rule 23 [Section 17223]

above. Notwithstanding the foregoing time limits, if a Party subsequently discovers facts constituting grounds for the disqualification of the appointed Hearing Officer, including but not limited to that the Hearing Officer has received a prohibited ex parte communication in the pending case, the motion shall be filed as soon as practicable after the facts constituting grounds for disqualification are discovered.

(d) Upon receipt of a motion to disqualify the appointed Hearing Officer, the Director may: (1) consider and decide the motion or appoint another Hearing Officer to consider and decide the motion, in which case the challenged Hearing Officer shall first be given an opportunity to respond to the motion, but no proceedings shall be conducted by the challenged Hearing Officer until the motion is determined; or (2) appoint another Hearing Officer to hear the Request for Review, in which case the motion shall be deemed moot.

§ 17241. Time and Place of Hearing.

(a) A hearing on the merits of a timely Request for Review shall be commenced within 90 days after the date it is received by the Office of the Director. The hearing shall be conducted at a suitable location within the county where the appointed Hearing Officer maintains his or her regular office, unless the hearing is moved to a different county in accordance with subpart (b) below.

(b) Upon the agreement of the Parties or upon a showing of good cause by either the Party who filed the Request for Review or the Enforcing Agency, the hearing shall be conducted at a suitable location within either (1) the county where a majority of the subject public works employment was performed, or (2) any other county that is proximate to or convenient for the Parties and necessary witnesses.

(c) A suitable location under this section means one that is open and accessible to members of the public and which includes appropriate facilities for the recording of testimony. Any facility that is regularly used by any state agency or by the Awarding Body for public hearings and that will reasonably accommodate the anticipated number of Parties and witnesses involved in the proceeding, is presumed suitable in the absence of a contrary showing. Parties seeking to change the location of a hearing under subpart (b) shall make reasonable efforts to identify, agree upon, and arrange for the availability of a suitable location within a county specified in subpart (b)(1) or (b)(2).

§ 17242. Open Hearing; Confidential Evidence and Proceedings; and Exclusion of Witnesses.

(a) Subject to the qualifications set forth below, the hearing shall be open to the public. If all or part of the hearing is conducted by telephone, television, or other electronic means, the Hearing Officer shall conduct the hearing from a location where members of the public may be physically present, and members of the public shall also have a reasonable right of access to the hearing record and any transcript of the proceedings.

(b) Notwithstanding the provisions of subpart (a), the Hearing Officer may order closure of a hearing or make other protective orders to the extent necessary to: (1) preserve the confidentiality of information that is privileged, confidential, or otherwise protected by law; (2) ensure a fair hearing in the circumstances of the particular case; or (3) protect a minor witness or a witness with a developmental disability from intimidation or other harm, taking into account the rights of all persons.

(c) Upon motion of any Party or upon his or her own motion, the Hearing Officer may exclude from the hearing room any witnesses not at the time under examination. However, a Party to the proceeding and the Party's Representative shall not be excluded.

(d) This section does not apply to any prehearing or settlement conference.

§ 17243. Conduct of Hearing.

(a) Testimony shall be taken only on oath or affirmation under penalty of perjury.

(b) Every Party shall have the right to call and examine witnesses; to introduce exhibits; to question opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which Party first called the witness to testify; and to rebut any opposing evidence. A Party may be called by an opposing Party and examined as if under cross-examination, whether or not the Party called has testified or intends to testify on his or her own behalf.

(c) The Hearing Officer may call and examine any Party or witness and may on his or her own motion introduce exhibits.

(d) The Hearing Officer shall control the taking of evidence and other course of proceedings in a hearing and shall exercise that control in a manner best suited to ascertain the facts and safeguard the rights of the Parties. Prior to taking evidence, the Hearing Officer shall define the issues and explain the order in which evidence will be presented; provided that, for good cause the Hearing Officer later may vary the order of presentation as circumstances warrant.

§ 17244. Evidence Rules; Hearsay.

(a) The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions.

(b) The rules of privilege shall be recognized to the same extent and applied in the same manner as in the courts of this state.

(c) The Hearing Officer may exclude evidence if its probative value is substantially outweighed by the probability that its admission will necessitate undue consumption of time.

(d) Hearsay evidence is admissible but shall not be sufficient in itself to support a finding unless it either would be admissible over objection in a civil action or no Party raises an objection to such use. Unless previously waived, an objection or argument that evidence is insufficient in itself to support a finding because of its hearsay character shall be timely if presented at any time before submission of the case for decision.

§ 17245. Official Notice.

(a) A Hearing Officer may take official notice of (1) the Director's General Prevailing Wage Determinations, the Director's Precedential Coverage Decisions, and wage data, studies, and reports issued by the Division of Labor Statistics and Research; (2) any other generally accepted technical fact within the fields of labor and employment that are regulated by the Director under Divisions 1, 2, and 3 of the Labor Code; and (3) any fact which either must or may be judicially noticed by the courts of this state under Evidence Code sections 451 and 452.

(b) The Parties participating in a hearing shall be informed of those matters as to which official notice is proposed to be taken and given a reasonable opportunity to show why and the extent to which official notice should or should not be taken.

(c) The Hearing Officer or the Director shall state in a decision, order, or on the record the matters as to which official notice has been taken.

§ 17246. Failure to Appear; Relief from Default.

(a) Upon the failure of any Party to appear at a duly noticed hearing, the Hearing Officer may proceed in that Party's absence and may recommend whatever decision is warranted by the available evidence, including any lawful inferences that can be drawn from an absence of proof by the non-appearing Party.

(b) For good cause and under such terms as are just, the appointed Hearing Officer or the Director may relieve a Party from the effects of any failure to appear and order that a review proceeding be reinstated or reheard. A Party seeking relief from non-appearance shall file a written motion at the earliest opportunity and no later than 10 days following a proceeding of which the Party had actual notice. Such application shall be supported by an affidavit or declaration based on the personal knowledge of the declarant, and copies of the application and any supporting materials shall be served on all other Parties to the proceeding. No application shall be granted unless and until the other Parties have been afforded a reasonable opportunity to make a showing in opposition. An Order reinstating a proceeding or granting a rehearing under this section may be conditioned upon providing reimbursement to the Department and the other Parties for the costs associated with the prior non-appearance.

(c) Notwithstanding any application or showing made under subpart (b) of this Rule, neither the Hearing Officer nor the Director may reinstate any Request for Review where the underlying Assessment or Withholding of Contract Payments has become final and entered as a court judgment.

§ 17247. Contempt and Monetary Sanctions.

(a) If any Person in proceedings before an appointed Hearing Officer disobeys or resists any lawful order or refuses, without substantial justification, to respond to a subpoena, subpoena duces tecum, or refuses to take the oath or affirmation as a witness or thereafter refuses to be examined or is guilty of misconduct during a hearing or so near the place thereof as to obstruct the proceedings, or violates the prohibition against ex parte communications under Rule 07 [Section 17207] above, the Hearing Officer may do any one or more of the following: (1) certify the facts to the Superior Court in and for the county where the proceedings are held for contempt proceedings pursuant to Government Code section 11455.20; (2) exclude the Person from the hearing room; (3) prohibit the Person from testifying or introducing certain matters in evidence; and/or (4) establish certain facts, claims, or defenses if the Person in contempt is a Party.

(b) Either the appointed Hearing Officer by separate order or the Director in his or her decision may order a Party, the Party's authorized Representative, or both, to pay reasonable expenses, including attorney's fees, incurred by another Party as a result of bad faith actions or tactics that are frivolous or solely intended to cause unnecessary delay as defined in section 128.5 of the Code of Civil Procedure. Such order or the denial of such an order shall be subject to judicial review in the same manner as a decision of the Director on the merits. The order shall be enforceable in the same manner as a money judgment or by the contempt sanction.

§ 17248. Interpreters.

(a) Proceedings shall be conducted in the English language. The notice advising a Party of the hearing date shall also include notice of the Party's right to request an interpreter for a Party or witness who cannot speak or understand English, or who can do so only with difficulty, or who is deaf or hearing impaired as defined under Evidence Code section 754.

(b) A request for an interpreter for a Party or witness shall be submitted as soon as possible after the requesting Party becomes aware of the need for an interpreter and prior to the commencement of the hearing. The request should include information that (1) will enable the Hearing Officer and

Department to obtain an interpreter with appropriate skills; and (2) will assist the Hearing Officer in determining whether the Department or the requesting Party should pay for the cost of the interpreter.

(c) Upon receipt of a timely request, the Hearing Officer shall direct the Department to provide an interpreter and shall also decide whether the Department or the requesting Party shall pay the cost of the interpreter, based upon an equitable consideration of all the circumstances, including the requesting Party's ability to pay.

(d) A person is qualified to serve as an interpreter if he or she (1) is on the current State Personnel Board List of Certified Administrative Hearing Interpreters maintained pursuant to Government Code section 11435.25; and (2) has also been examined and determined by the Department to be sufficiently knowledgeable of the terminology and procedures generally used in these proceedings.

(e) In the event that a qualified interpreter under subpart (d) is unavailable or if there are no certified interpreters for the language in which assistance is needed, the Hearing Officer may qualify and appoint another interpreter to serve as needed in a single hearing or case.

(f) Before appointment of an interpreter, the Hearing Officer or a Party may conduct a brief supplemental examination of the prospective interpreter to see if that person has the qualifications necessary to serve as an interpreter, including whether he or she understands terms and procedures generally used in these proceedings, can explain those terms and procedures in English and the other language being used, and can interpret those terms and procedures into the other language. An interpreter shall not have had any prior substantive involvement in the matter under review, and shall disclose to the Hearing Officer and the Parties any actual conflict of interest or appearance of conflict. Any condition that interferes with the objectivity of an interpreter constitutes a conflict of interest. A conflict may exist if an interpreter is an employee of, acquainted with, or related to a Party or witness to the proceeding, or if an interpreter has an interest in the outcome of the proceeding.

(g) The Hearing Officer shall disqualify an interpreter if the interpreter cannot understand and interpret the terms and procedures used in the hearing or prehearing conference, has disclosed privileged or confidential communications, or has engaged in conduct which, in the judgment of the Hearing Officer, creates an appearance of bias, prejudice, or partiality.

(h) Nothing in this section limits any further rights extended by Evidence Code section 754 to a Party or witness who is deaf or hard of hearing.

§ 17249. Hearing Record; Recording of Testimony and Other Proceedings.

(a) The Hearing Officer and the Director shall maintain an official record of all proceedings conducted under these Rules. In the absence of a determination under subpart (b) below, all testimony and other proceedings at any hearing shall be recorded by audiotape. Recorded testimony or other proceedings need not be transcribed unless requested for purposes of further court review of a decision or order in the same case.

(b) Upon the application of any Party or upon his or her own motion, the Hearing Officer may authorize the use of a certified court reporter, videotape, or other appropriate means to record the testimony and other proceedings. Any application by a Party under this subpart shall be made at a prehearing conference or by prehearing motion filed no later than 10 days prior to the scheduled date of hearing. Upon the granting of any such application, it shall be the responsibility of the Party or Parties who made the application to procure and pay for the services of a qualified person and any additional equipment needed to record the testimony and proceedings by the requested means. Ordinarily the granting of such application will be conditioned on the applicant's paying for certified copies of the transcript for the official record and for the other Parties. The failure of a requesting Party to comply with this requirement shall not be cause for delaying the hearing on the merits, but instead shall result in the proceedings being tape recorded in accordance with subpart (a).

(c) The Parties may, at their own expense, arrange for the recording of testimony and other proceedings through a different means other than the one authorized by the Hearing Officer, provided that it does not in any way interfere with the Hearing Officer's control and conduct of the proceedings, and further provided that, it shall not be regarded as an official record for any purpose absent a stipulation by all of the Parties or order of the Hearing Officer.

§ 17250. Burdens of Proof on Wages and Penalties.

(a) The Enforcing Agency has the burden of coming forward with evidence that the Affected Contractor or Subcontractor (1) was served with an Assessment or Notice of Withholding of Contract Payments in accordance with Rule 20 [Section 17220]; (2) was provided a reasonable opportunity to review evidence to be utilized at the hearing in accordance with Rule 24 [Section 17224]; and (3) that such evidence provides prima facie support for the Assessment or Withholding of Contract Payments.

(b) If the Enforcing Agency meets its initial burden under (a), the Affected Contractor or Subcontractor has the burden of proving that the basis for the Civil Wage and Penalty Assessment or for the Withholding of Contract Payments is incorrect.

(c) With respect to any civil penalty established under Labor Code section 1775, the Affected Contractor or Subcontractor shall have the burden of proving that the Labor Commissioner abused his or her discretion in determining that a penalty was due or in determining the amount of the penalty.

(d) All burdens of proof and burdens of producing evidence shall be construed in a manner consistent with relevant sections of the Evidence Code, and the quantum of proof required to establish the existence or non-existence of any fact shall be by a preponderance of the evidence, unless a higher standard is prescribed by law.

§ 17251. Liquidated Damages.

(a) With respect to any liquidated damages for which an Affected Contractor, Subcontractor, or Surety on a bond becomes liable under Labor Code section 1742.1, the Enforcing Agency shall have a further burden of coming forward with evidence to show the amount of wages that remained unpaid as of 60 days following the service of the Assessment or Notice of Withholding of Contract Payments. The Affected Contractor or Subcontractor shall have the burden of demonstrating that he or she had substantial grounds for believing the Assessment or Notice to be in error.

(b) To demonstrate "substantial grounds for believing the Assessment or Notice to be in error," the Affected Contractor or Subcontractor must establish (1) that it had a reasonable subjective belief that the Assessment or Notice was in error; (2) that there is an objective basis in law and fact for the claimed error; and (3) that the claimed error is one that would have substantially reduced or eliminated any duty to pay additional wages under the Assessment or Notice.

§ 17252. Oral Argument and Briefs.

(a) Parties may submit prehearing briefs of reasonable length under such conditions as the appointed Hearing Officer shall prescribe. Parties shall also be permitted to present a closing oral argument of reasonable length at or following the conclusion of the hearing.

(b) There shall be no automatic right to file a post-hearing brief. However, the Hearing Officer may permit the Parties to submit written post-hearing briefs, under such terms as are just. The Hearing Officer shall have discretion to determine, among other things, the length and format of such briefs and whether they will be filed simultaneously or on a staggered (opening, response, and reply) basis.

(c) In addition to or as an alternative to post-hearing briefs, the Hearing Officer may also prepare proposed findings or a tentative decision or may designate a Party to prepare proposed findings and thereafter give the Parties a reasonable opportunity to present arguments in support of or opposition to any proposed findings or tentative decision prior to the issuance of a decision by the Director under Rule 60 [Section 17260] below.

§ 17253. Conclusion of Hearing; Time for Decision.

(a) The hearing shall be deemed concluded and the matter submitted either upon the completion of all testimony and post-hearing arguments or upon the expiration of the last day for filing any post-hearing brief or other authorized submission, whichever is later. Thereafter, the Director shall have 45 days within which to issue a written decision affirming, modifying, or dismissing the Assessment or the Withholding of Contract Wages.

(b) For good cause, the Hearing Officer may vacate the submission and reopen the hearing for the purpose of receiving additional evidence or argument, in which case the time for the Director to issue a written decision shall run from the date of resubmission.

§ 17260. Decision.

(a) The appointed Hearing Officer shall prepare a recommended decision for the Director's review and approval. The decision shall consist of a notice of findings, findings, and an order, and shall be in writing and include a statement of the factual and legal basis for the decision, consistent with the requirements of Labor Code section 1742 and Government Code section 11425.50.

(b) A recommended decision shall have no status or effect unless and until approved by the Director and issued in accordance with subpart (c) below.

(c) A copy of the decision shall be served by first class mail on all Parties in accordance with the requirements of Code of Civil Procedure section 1013. If a Party has appeared through an authorized Representative, service shall be made on that Party at the last known address on file with the Enforcing Agency in addition to service on the authorized Representative.

§ 17261. Reconsideration.

(a) Upon the application of any Party or upon his or her own motion, the Director may reconsider or modify a decision issued under Rule 60 [Section 17260] above for the purpose of correcting any error therein.

(b) The decision must be reconsidered or modified within 15 days after its date of issuance pursuant to Rule 60(c) [Section 17260(c)]. Thereafter, the decision may not be reconsidered or modified, except that a clerical error may be corrected at any time.

(c) The modified or reconsidered decision shall be served on the Parties in the same manner as a decision issued under Rule 60 [Section 17260].

(d) A Party is not required to apply for reconsideration before seeking judicial review of a decision of the Director. An application for reconsideration made by any Party shall not extend the time for seeking judicial review pursuant to Labor Code section 1742(c) unless the Director issues a modified or reconsidered decision within the 15-day time limit prescribed in subpart (b) of this section.

§ 17262. Final Decision; Time for Seeking Review.

(a) The decision of the Director issued pursuant to Section Rule 60 [Section 17260] above shall be the final decision of the Director from which any Party may seek judicial review pursuant to the provisions of Labor Code section 1742(c) and Code of Civil Procedure section 1094.5; provided however, that if the Director has issued a modified decision pursuant to and within the 15-day limit of the Director's reconsideration authority under Section Rule 61 [Section 17261] above and Labor Code section 1742(b), the right of review and time for seeking such review shall extend from the date of service of the modified decision rather than from the original decision.

(b) The modification of a decision to correct a clerical error after expiration of the 15-day time limit on the Director's reconsideration authority shall not extend the time for seeking judicial review.

(c) The time for seeking judicial review shall be determined from the date of service of the decision of the Director under Code of Civil Procedure section 1013, including any applicable extension of time provided in that statute.

(d) Any petition seeking judicial review of a decision under these Rules may be served (1) upon the Director by serving the Office of the Director - Legal Unit where the appointed Hearing Officer who conducted the hearing on the merits regularly maintains his or her office; and (2) upon the Labor Commissioner (in cases in which the Labor Commissioner was the Enforcing Agency) by the serving the regular office of the attorney who represented the Labor Commission at the hearing on the merits. The intent of this subpart is to authorize and designate a preferred method for giving the Director and the Labor Commissioner formal notice of a court action seeking review of a decision of the Director under these Rules; it does not preclude the use any other service method authorized by law.

§ 17263. Preparation of Record for Review.

(a) Upon notice that a Party intends to seek judicial review of a decision of the Director and the payment of any required deposit, the Department, under the direction of the appointed Hearing Officer, shall immediately prepare a hearing record consisting of all exhibits and other papers and a transcript of all testimony which the Party has designated for the inclusion in the record on review.

(b) The Party who has requested the record or any part thereof shall bear the cost of its preparation, including but not necessarily limited to any court reporter transcription fees and reasonable charges for the copying, binding, certification, and mailing of documents. Absent good cause, no record will be released to a Party or filed with a court until adequate funds to cover the cost of preparing the record have been paid by the requesting Party to the Department or to any third party designated to prepare the record. However, upon notice that a Party seeking judicial review has been granted in forma pauperis status under California Rule of Court 985, the Department shall bear the cost of preparing and filing the record where necessary for a proper review of the proceedings.

(c) The pendency of any request for the Department to prepare a hearing record shall not extend the time limits for filing a petition for review under Labor Code section 1742(c) and Code of Civil Procedure section 1094.5.

§ 17264. Request for Participation by Director in Judicial Review Proceeding.

Although the Director should be named as the Respondent in any action seeking judicial review of a final decision, the Director ordinarily will rely upon the Parties to the hearing (as Petitioner and Real Party in Interest) to litigate the correctness of the final decision in the writ proceeding and on any appeal. The Director may participate actively in proceedings raising issues that specifically concern the Director's authority under the statutes and regulations governing the payment of prevailing wages on public work contracts, or the validity of related laws, regulations, or the Director's decisions as to public works coverage or generally applicable prevailing wage rates. Any Party may request the Director to file a response in the action by including a separate written request with any court pleading being served on the Director in accordance with Rule 62(d) [Section 17262(d)]. Any such separate written

request should specify briefly what issues are raised by the petition that extend beyond the facts of the case and warrant the Director's participation.

§ 17270. Applicability of These Rules to Notices Issued Between April 1, 2001 and June 30, 2001.

(a) These Rules shall apply to any notice issued by the Labor Commissioner or an Awarding Body with respect to the withholding or forfeiture of contract payments for unpaid wages or penalties under the prevailing wage laws in effect prior to July 1, 2001; provided that, the party seeking review has not commenced a civil action with respect to such notice under the provisions of Labor Code sections 1731-1733 [repealed effective July 1, 2001].

(b) An Affected Contractor or Subcontractor may appeal any such notice served between April 1, 2001 and June 30, 2001 by filing a Request for Review with the Enforcing Agency that issued the notice, in the manner and form specified in Rule 22 [Section 17222] above. Any such Request for Review shall be in writing and shall include a statement indicating the date upon which the contractor or subcontractor was served with the notice of withholding or forfeiture.

(c) This Rule shall not extend the time available to appeal the notice under the former law. A Request for Review of a notice issued prior to July 1, 2001 must be filed with the Enforcing Agency within ninety (90) days after service of the notice.

(d) A contractor or subcontractor who has sought review of a notice issued prior to July 1, 2001 by filing a court action under the repealed provisions of Labor Code sections 1731-1733 on or after July 1, 2001, shall, if said action would have been timely under those sections, be afforded the opportunity to dismiss the action without prejudice, after entering into a stipulation that the proceeding be transferred to the Director for hearing in accordance with these Rules. The stipulation shall also provide that the time for commencing a hearing under Rule 41 [Section 17241] shall not begin to run until the case has been formally transferred to and received by the Office of the Director.

(e) Any hearing request made pursuant to Labor Code section 1771.7 [repealed effective July 1, 2001] that has not been heard and decided by a Hearing Officer prior to July 1, 2001 shall be handled in accordance with these Rules.

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

☒ Consent ☐ Departmental ☐ Correspondence Action ☐ Public Hearing
☐ Schedule time for ☐ Closed Session ☐ Informational

For Clerk's Use Only:
AGENDA NUMBER
19

FROM: Public Works Department

FOR THE BOARD MEETING OF: April 15, 2014

SUBJECT: Independence Legion Hall painting and stucco contract

DEPARTMENTAL RECOMMENDATION

Request your Board approve a contract with Astro Painting Co. Inc. for the repair and or replacement of the existing stucco and the repainting/refinishing of the existing doors and windows on the American Legion Hall located at 205 South Edwards Street, Independence CA 93526. Proposed contract in an amount not to exceed $13,500 and contingent upon obtaining the appropriate signatures.

CAO RECOMMENDATION:

SUMMARY DISCUSSION:

On March 6, 2014 the Public Works Department issued a request for quotations related to the the repair and or replacement of the existing stucco and the repainting/refinishing of the existing doors and windows on the American Legion Hall located at 205 South Edwards Street, Independence CA 93526. The new finish will match the existing finish relative to texture and feature a two color scheme, colors to be pre-selected by the County. Existing windows will be scraped, sanded, reglazed as necessary, primed and painted. The existing doors will require stripping, sanding and staining to match the original finish.

On March 19, 2014 at approximately 3:00 p.m. three responsive bids were opened with the following results:
1.) Astro Painting Co. Inc. - $13,500
2.) Troy Cauldwell Paint and Stucco - $15,736
3.) OzzCorp Inc. - $45,402

The Public Works Department is recommending your Board approve a Contract with Astro Painting Co. Inc.in an amount not to exceed $13,500 for the previously identified scope of work.

ALTERNATIVES:

Your Board could choose to not award the contract and direct staff to research additional options for the repairs. This is not recommended as the existing finish is failing and further delays could result in increased repair costs.

OTHER AGENCY INVOLVEMENT:

County Counsel
Auditor Controller

FINANCING:

Funding for this project is identified in the 2013/2014 budget in unit 011501 deferred maintenance, object codes 5263 advertising and 5265 professional services

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (Must be reviewed and approved by County Counsel prior to submission to the board clerk.) Approved: yes 4/4/2014 Date_____
AUDITOR/CONTROLLER	ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the auditor/controller prior to submission to the board clerk.) Approved: yes Date 4/7/14
PERSONNEL DIRECTOR	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) Approved:_____ Date_____

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) _____ Date: 4/7/14

COUNTY OF INYO
PUBLIC WORKS DEPARTMENT
P.O. DRAWER Q
INDEPENDENCE, CA 93526

REQUEST FOR QUOTATION
THIS IS NOT AN ORDER!

DATE ISSUED: March 6, 2014

Clint G. Quilter, Public Works Director
Jim Tatum, Deputy Public Works Director

Phone 760-878-0201
Fax 760-878-2001

TO BE RETURNED BY: March 19, 2014 by 3:00 PM

To:
Send to: Inyo County Public Works Department, P.O. Drawer Q, Independence, CA 93526

PLEASE QUOTE ON THE FOLLOWING ITEMS: **American Legion Hall Building**
205 South Edwards Street, Independence, CA 93526

QUANTITY	DESCRIPTION	UNIT PRICE	NET TOTAL
	The Inyo County Public Works Department is requesting bids for the repair and or replacement of the existing stucco and the repainting/refinishing of the existing doors and windows on the American Legion Hall building located at 205 South Edwards Street, Independence, CA. The existing finish is in varying states of failure and will require thorough inspection by prospective bidders.	3,000.00	3,000.00
	The new finish will match the existing finish relative to texture and feature a two color scheme, colors to be pre-selected by the County. Existing windows will be scraped, sanded, reglazed as necessary, primed and painted. The existing doors will require stripping, sanding and staining to match the original finish.	2,500.00	2,500.00
	It is strongly recommended that perspective bidders schedule a site visit by contacting Jim Tatum 760-878-0205.		
	Successful bidder must provide proof of insurance for General Liability		
	And Automotive in the amounts of $1,000,000 each and a copy of the		
	Stationary Workers Comp.		
	Questions regarding this quote: call Jim Tatum at 760-878-0205		
	Quotes must include all charges.		
	SALES TAX (8%)		
	LABOR	8000.00	8000.00
	TOTAL	13,500.00	13,500.00

There is a contracting preference of 5% for small business enterprises and 8% for local businesses available for this Request for Proposals, Bids or quotes. To be eligible for the preference, a small business enterprise must submit proof of state registration as a SBE with its bid and a local business must provide certification that it is a local business as defined by Inyo County Code § 6.06.020(B) with its bid.

IMPORTANT NOTICE to Bidders: The return of a signed Original (white) form shall constitute a promise to supply or perform the enumerated items subject to the terms and conditions shown at prices stated hereon. Quote all prices F.O.B. destination. Do not include federal excise tax on your quotation. Exemption certificates will be furnished with order when applicable. State sales tax should be shown separately.

THE QUOTATION (S) LISTED ABOVE REMAIN VALID AND IN EFFECT THROUGH APRIL 2014
DELIVERY WILL BE MADE IN _____ **DAYS FROM RECEIPT OF ORDER, EXCEPT AS OTHERWISE INDICATED.**

TERMS: 20 DAYS **DATE:** 3-18-14

FIRM NAME Astro Painting Co., Inc. **By** D.M. vice president
(Title) (Signature)

Quotes must be received by the Inyo County Assistant Clerk of the Board of Supervisors, 224 N. Edwards Street, (mailing address: P.O. Box N), Independence, CA 93526 at or before 3:00 PM on Wednesday, March 19, 2014, at which time they will be publicly opened and read aloud. No oral, telegraphic, or fax proposals or modifications will be accepted. Your name and address (not handwritten) must appear on the envelope when returning your quotation. Envelopes without a return address will be disposed of without being opened. Please indicate "American Legion Hall Building" on the envelope.

This Bid was received on 3-19, 20 14 at 2:59 pm.
ATTEST: Kevin D. Carunchio
County Administrative Officer and Clerk of the Board
Inyo County, California
By Patricia Dunsalley
Assistant

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COUNTY OF INYO
PUBLIC WORKS DEPARTMENT
P.O. DRAWER Q
INDEPENDENCE, CA 93526

REQUEST FOR QUOTATION
THIS IS NOT AN ORDER!

DATE ISSUED: March 6, 2014

Clint G. Quilter, Public Works Director
Jim Tatum, Deputy Public Works Director

Phone 760-878-0201
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TO BE RETURNED BY: March 19, 2014 by 3:00 PM

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Send to: Inyo County Public Works Department, P.O. Drawer Q, Independence, CA 93526

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	The new finish will match the existing finish relative to texture and feature a two color scheme, colors to be pre-selected by the County. Existing windows will be scraped, sanded, reglazed as necessary, primed and painted. The existing doors will require stripping, sanding and staining to match the original finish.		
	It is strongly recommended that perspective bidders schedule a site visit by contacting Jim Tatum 760-878-0205.		
	Successful bidder must provide proof of insurance for General Liability		
	And Automotive in the amounts of $1,000,000 each and a copy of the		
	Stationary Workers Comp.		
	Questions regarding this quote: call Jim Tatum at 760-878-0205		
	Quotes must include all charges.		
	SALES TAX (8%)		
	LABOR		
	TOTAL		15,736.00

There is a contracting preference of 5% for small business enterprises and 8% for local businesses available for this Request for Proposals, Bids or quotes. To be eligible for the preference, a small business enterprise must submit proof of state registration as a SBE with its bid and a local business must provide certification that it is a local business as defined by Inyo County Code § 6.06.020(B) with its bid.

IMPORTANT NOTICE to Bidders: The return of a signed Original (white) form shall constitute a promise to supply or perform the enumerated items subject to the terms and conditions shown at prices stated hereon. Quote all prices F.O.B. destination. Do not include federal excise tax on your quotation. Exemption certificates will be furnished with order when applicable. State sales tax should be shown separately.

THE QUOTATION (S) LISTED ABOVE REMAIN VALID AND IN EFFECT THROUGH 8-15-14
DELIVERY WILL BE MADE IN _____ DAYS FROM RECEIPT OF ORDER, EXCEPT AS OTHERWISE INDICATED.

TERMS: _____ **DATE:** 3-14-14

FIRM NAME Troy Cauldwell Paint + Stucco **By** [signature] - Owner
(Title) (Signature)

Quotes must be received by the Inyo County Assistant Clerk of the Board of Supervisors, 224 N. Edwards Street, (mailing address: P.O. Box N), Independence, CA 93526 at or before 3:00 PM on Wednesday, March 19, 2014, at which time they will be publicly opened and read aloud. No oral, telegraphic, or fax proposals or modifications will be accepted. Your name and address (not handwritten) must appear on the envelope when returning your quotation. Envelopes without a return address will be disposed of without being opened. Please indicate "American Legion Hall Building" on the envelope.

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OzzCorp Inc.

Phone: (760) 975-6306

General B & A Engineering
CONTRACTOR
License No. 982039
Dr.

Email:will@ozzcorpinc.com

1716 Shoshone

Bishop CA 93514

March 11, 2014

PROPOSAL/QUOTE

Base Bid Price: Forty Five Thousand Four Hundred Two Dollars and Zero Cents.
($45,402.00)

Scope of Work / Breakdown of Quote

Thank you for allowing OzzCorp Inc. the opportunity to bid this project for you. Based on the walkthrough March 9, 2014. OzzCorp Inc has put together a proposal with a breakdown of work of General Conditions. The project was priced based on prior experience and visual observation of existing conditions.

A. General Conditions-OzzCorp Inc. will furnish all labor, equipment supervision, coordination and communication in a workmanlike manner and incorporate scope of work called out in accordance with Inyo County Public Works Department "REQUEST FOR QUOTATION" publication (IR 3/6, 3/8/14, # 11054) with the following clariification breakdown:

1 Sandblast or Water blast with sand, North Elevation;
2 Sandblast or Water blast with sand, South Elevation;
3 Sandblast or Water blast with sand, West Elevation;
4 Sandblast or Water blast with sand, East Elevation;
5 Repair and restore all doors as close as possible to its orginal prior condition;
6 All door will be stained and sealed with CS-1000, data sheet included for review;
7 Repair and restore all existing window wood frams to its original condition. Many of the exterior window wood frames appear to be beyond repair and possibly

need to be reproduced or replaced (finish carpentry);

8 Repair and restore all exterior existing louvered vents of entire building;

9 Remove and replace all existing glass windows where needed to match historical appearance.

10 Apply new finish stucco coat to intire esterior building;

11 Prime entire exterior building;

12 Paint entire exterior building.

Once again thank you for giving Ozzcorp Inc. and opportunity to bid on this project.

Thank You

Will C Jauregui
OzzCorp Inc.
760-975-6306

This Bid was received on 3-18, 2014 at 8:31 Am.
ATTEST: Kevin D. Carunchio
County Administrative Officer and Clerk of the Board
Inyo County, California
By Patricia Gunsolley
Assistant

AGREEMENT BETWEEN COUNTY OF INYO
AND Astro Painting Co. Inc.
FOR THE PROVISION OF painting and stucco repair services **SERVICES**

INTRODUCTION

WHEREAS, the County of Inyo (hereinafter referred to as "County") has the need for the painting and stucco repair services services of Astro Painting Co. Inc. of West Covina, CA hereinafter referred to as "Contractor"), and in consideration of the mutual promises, covenants, terms, and conditions hereinafter contained, the parties hereby agree as follows:

TERMS AND CONDITIONS

1. SCOPE OF WORK.

The Contractor shall furnish to the County, those services and work set forth in Attachment **A**, attached hereto and by reference incorporated herein.

Services and work provided by the Contractor at the County's request under this Agreement will be performed in a manner consistent with the requirements and standards established by applicable federal, state, and County laws, ordinances, regulations, and resolutions. Such laws, ordinances, regulations, and resolutions include, but are not limited to, those which are referred to in this Agreement.

2. TERM.

The term of this Agreement shall be from May 1, 2014 to June 30, 2014 unless sooner terminated as provided below.

3. CONSIDERATION.

A. Compensation. County shall pay to Contractor the sum total of Thirteen thousand five hundred Dollars and zero cents ($13,500) for performance of all of the services and completion of all of the work described in Attachment **A**.

B. Travel and Per Diem. Contractor will not be paid or reimbursed for travel expenses or per diem which Contractor incurs in providing services and work under this Agreement.

C. No Additional Consideration. Except as expressly provided in this Agreement, Contractor shall not be entitled to, nor receive, from County, any additional consideration, compensation, salary, wages, or other type of remuneration for services rendered under this Agreement. Specifically, Contractor shall not be entitled, by virtue of this Agreement, to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays, or other paid leaves of absence of any type or kind whatsoever.

D. Limit Upon Amount Payable Under Agreement. The total sum of all payments made by the County to Contractor for all services and work to be performed under this Agreement shall not exceed thirteen thousand five hundred Dollars (hereinafter referred to as "contract limit"). County expressly reserves the right to deny any payment or reimbursement requested by Contractor for services or work performed which is in excess of the contract limit.

E. Billing and Payment. Contractor shall submit to the County, upon completion of all services and work set forth in Attachment **A**, an itemized statement of all services and work performed by Contractor pursuant to this Agreement. This statement will identify the date on which the services were performed and describe the nature of the services and work which was performed on each day. Upon receipt of the statement by the fifth (5th) day of the month, County shall make payment to Contractor on the last day of the month.

F. Federal and State Taxes.

(1) Except as provided in subparagraph (2) below, County will not withhold any federal or state income taxes or social security from any payments made by County to Contractor under the terms and conditions of this Agreement.

(2) County will withhold California State income taxes from payments made under this Agreement to non-California resident independent contractors when it is anticipated that total annual payments to Contractor under this Agreement will exceed one thousand four hundred ninety-nine dollars ($1,499.00).

(3) Except as set forth above, County has no obligation to withhold any taxes or payments from sums paid by County to Contractor under this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Contractor. County has no responsibility or liability for payment of Contractor's taxes or assessments.

(4) The total amounts paid by County to Contractor, and taxes withheld from payments to non-California residents, if any, will be reported annually to the Internal Revenue Service and the California State Franchise Tax Board. To facilitate this reporting, Contractor shall complete and submit to the County an Internal Revenue Service (IRS) Form W-9 upon executing this Agreement.

4. WORK SCHEDULE.

Contractor's obligation is to perform, in a timely manner, those services and work identified in Attachment **A**. It is understood by Contractor that the performance of these services and work will require a varied schedule. Contractor will arrange his/her own schedule, but will coordinate with County to insure that all services and work requested by County under this Agreement will be performed within the time frame set forth by County.

5. REQUIRED LICENSES, CERTIFICATES, AND PERMITS.

A. Any licenses, certificates, or permits required by the federal, state, county, or municipal governments for contractor to provide the services and work described in Attachment **A** must be procured by Contractor and be valid at the time Contractor enters into this Agreement. Further, during the term of this Agreement, Contractor must maintain such licenses, certificates, and permits in full force and effect. Licenses, certificates, and permits may include, but are not limited to, driver's licenses, professional licenses or certificates, and business licenses. Such licenses, certificates, and permits will be procured and maintained in force by Contractor at no expense to the County. Contractor will provide County, upon execution of this Agreement, with evidence of current and valid licenses, certificates and permits which are required to perform the services identified in Attachment **A**. Where there is a dispute between Contractor and County as to what licenses, certificates, and permits are required to perform the services identified in Attachment **A**, County reserves the right to make such determinations for purposes of this Agreement.

B. Contractor warrants that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in covered transactions by any federal department or agency. Contractor also warrants that it is not suspended or debarred from receiving federal funds as listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs issued by the General Services Administration available at: http://www.sam.gov.

6. OFFICE SPACE, SUPPLIES, EQUIPMENT, ETC.

Contractor shall provide such office space, supplies, equipment, vehicles, reference materials, and telephone service as is necessary for Contractor to provide the services identified in Attachment A to this Agreement. County is not obligated to reimburse or pay Contractor, for any expense or cost incurred by Contractor in procuring or maintaining such items. Responsibility for the costs and expenses incurred by Contractor in providing and maintaining such items is the sole responsibility and obligation of Contractor.

7. COUNTY PROPERTY.

A. Personal Property of County. Any personal property such as, but not limited to, protective or safety devices, badges, identification cards, keys, etc. provided to Contractor by County pursuant to this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of County. Contractor will use reasonable care to protect, safeguard and maintain such items while they are in Contractor's possession. Contractor will be financially responsible for any loss or damage to such items, partial or total, which is the result of Contractor's negligence.

B. Products of Contractor's Work and Services. Any and all compositions, publications, plans, designs, specifications, blueprints, maps, formulas, processes, photographs, slides, video tapes, computer programs, computer disks, computer tapes, memory chips, soundtracks, audio recordings, films, audio-visual presentations, exhibits, reports, studies, works of art, inventions, patents, trademarks, copyrights, or intellectual properties of any kind which are created, produced, assembled, compiled by, or are the result, product, or manifestation of, Contractor's services or work under this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of the County. At the termination of the Agreement, Contractor will convey possession and title to all such properties to County.

8. WORKERS' COMPENSATION.

Contractor shall provide Statutory California Worker's Compensation coverage and Employer's Liability coverage for not less than $1,000,000 per occurrence for all employees engaged in services or operations under this Agreement. The County of Inyo, its agents, officers and employees shall be named as additional insured or a waiver of subrogation shall be provided.

9. INSURANCE.

For the duration of this Agreement Contractor shall procure and maintain insurance of the scope and amount specified in Attachment **B** and with the provisions specified in that attachment.

10. STATUS OF CONTRACTOR.

All acts of Contractor, its agents, officers, and employees, relating to the performance of this Agreement, shall be performed as independent contractors, and not as agents, officers, or employees of County. Contractor, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of County. Except as expressly provided in Attachment A, Contractor has no authority or responsibility to exercise any rights or power vested in the County. No agent, officer, or employee of the County is to be considered an employee of Contractor. It is understood by both Contractor and County that this Agreement shall not under any circumstances be construed or considered to create an employer-employee relationship or a joint venture. As an independent contractor:

A. Contractor shall determine the method, details, and means of performing the work and services to be provided by Contractor under this Agreement.

B. Contractor shall be responsible to County only for the requirements and results specified in this Agreement, and except as expressly provided in this Agreement, shall not be subjected to County's control with respect to the physical action or activities of Contractor in fulfillment of this Agreement.

C. Contractor, its agents, officers, and employees are, and at all times during the term of this Agreement shall, represent and conduct themselves as independent contractors, and not as employees of County.

11. DEFENSE AND INDEMNIFICATION.

Contractor shall defend, indemnify, and hold harmless County, its agents, officers, and employees from and against all claims, damages, losses, judgments, liabilities, expenses, and other costs, including litigation costs and attorney's fees, arising out of, resulting from, or in connection with, the performance of this Agreement by Contractor, or Contractor's agents, officers, or employees. Contractor's obligation to defend, indemnify, and hold the County, its agents, officers, and employees harmless applies to any actual or alleged personal injury, death, or damage or destruction to tangible or intangible property, including the loss of use. Contractor's obligation under this paragraph extends to any claim, damage, loss, liability, expense, or other costs which is caused in whole or in part by any act or omission of the Contractor, its agents, employees, supplier, or any one directly or indirectly employed by any of them, or anyone for whose acts or omissions any of them may be liable.

Contractor's obligation to defend, indemnify, and hold the County, its agents, officers, and employees harmless under the provisions of this paragraph is not limited to, or restricted by, any requirement in this Agreement for Contractor to procure and maintain a policy of insurance.

To the extent permitted by law, County shall defend, indemnify, and hold harmless Contractor, its agents, officers, and employees from and against all claims, damages, losses, judgments, liabilities, expenses, and other costs, including litigation costs and attorney's fees, arising out of, or resulting from, the active negligence, or wrongful acts of County, its officers, or employees.

12. RECORDS AND AUDIT.

A. Records. Contractor shall prepare and maintain all records required by the various provisions of this Agreement, federal, state, and municipal law, ordinances, regulations, and directions. Contractor shall maintain these records for a minimum of four (4) years from the termination or completion of this Agreement. Contractor may fulfill its obligation to maintain records as required by this paragraph by substitute photographs, microphotographs, or other authentic reproduction of such records.

B. Inspections and Audits. Any authorized representative of County shall have access to any books, documents, papers, records, including, but not limited to, financial records of Contractor, which County determines to be pertinent to this Agreement, for the purposes of making audit, evaluation, examination, excerpts, and transcripts during the period such records are to be maintained by Contractor. Further, County has the right, at all reasonable times, to audit, inspect, or otherwise evaluate the work performed or being performed under this Agreement.

13. NONDISCRIMINATION.

During the performance of this Agreement, Contractor, its agents, officers, and employees shall not unlawfully discriminate in violation of any federal, state, or local law, against any employee, or applicant for employment, or person receiving services under this Agreement, because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age, or sex. Contractor and its agents, officers, and employees shall comply with the provisions of the Fair Employment and Housing Act (Government Code section 12900, et seq.), and the applicable regulations promulgated thereunder in the California Code of Regulations. Contractor shall also abide by the Federal Civil Rights Act of 1964 (P.L. 88-352) and all amendments thereto, and all administrative rules and regulations issued pursuant to said act.

14. ASSIGNMENT.

This is an agreement for the services of Contractor. County has relied upon the skills, knowledge, experience, and training of Contractor as an inducement to enter into this Agreement. Contractor shall not assign or subcontract this Agreement, or any part of it, without the express written consent of County. Further, Contractor shall not assign any monies due or to become due under this Agreement without the prior written consent of County.

15. DEFAULT.

If the Contractor abandons the work, or fails to proceed with the work and services requested by County in a timely manner, or fails in any way as required to conduct the work and services as required by County, County may declare the Contractor in default and terminate this Agreement upon five (5) days written notice to Contractor. Upon such termination by default, County will pay to Contractor all amounts owing to Contractor for services and work satisfactorily performed to the date of termination.

16. WAIVER OF DEFAULT.

Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided in paragraph twenty-three (23) below.

17. CONFIDENTIALITY.

Contractor agrees to comply with the various provisions of the federal, state, and county laws, regulations, and ordinances providing that information and records kept, maintained, or accessible by Contractor in the course of providing services and work under this Agreement, shall be privileged, restricted, or confidential. Contractor agrees to keep confidential all such information and records. Disclosure of such confidential, privileged, or protected information shall be made by Contractor only with the express written consent of the County.

18. CONFLICTS.

Contractor agrees that it has no interest, and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of the work and services under this Agreement.

19. POST AGREEMENT COVENANT.

Contractor agrees not to use any confidential, protected, or privileged information which is gained from the County in the course of providing services and work under this Agreement, for any personal benefit, gain, or enhancement. Further, Contractor agrees for a period of two years after the termination of this Agreement, not to seek or accept any employment with any entity, association, corporation, or person who, during the term of this Agreement, has had an adverse or conflicting interest with the County, or who has been an adverse party in litigation with the County, and concerning such, Contractor by virtue of this Agreement has gained access to the County's confidential, privileged, protected, or proprietary information.

20. SEVERABILITY.

If any portion of this Agreement or application thereof to any person or circumstance shall be declared invalid by a court of competent jurisdiction, or if it is found in contravention of any federal, state, or county statute, ordinance, or regulation, the remaining provisions of this Agreement, or the application thereof, shall not be invalidated thereby, and shall remain in full force and effect to the extent that the provisions of this Agreement are severable.

21. FUNDING LIMITATION.

The ability of County to enter this Agreement is based upon available funding from various sources. In the event that such funding fails, is reduced, or is modified, from one or more sources, County has the option to cancel, reduce, or modify this Agreement, or any of its terms within ten (10) days of its notifying Contractor of the cancellation, reduction, or modification of available funding. Any reduction or modification of this Agreement made pursuant to this provision must comply with the requirements of paragraph twenty-three (23) (Amendment).

22. ATTORNEY'S FEES.

If either of the parties hereto brings an action or proceeding against the other, including, but not limited to, an action to enforce or declare the cancellation, termination, or revision of the Agreement, the prevailing party in such action or proceeding shall be entitled to receive from the other party all reasonable attorney's fees and costs incurred in connection therewith.

23. AMENDMENT.

This Agreement may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties hereto, if such amendment or change is in written form and executed with the same formalities as this Agreement, and attached to the original Agreement to maintain continuity.

24. NOTICE.

Any notice, communication, amendments, additions, or deletions to this Agreement, including change of address of either party during the terms of this Agreement, which Contractor or County shall be required, or may desire, to make, shall be in writing and may be personally served, or sent by prepaid first class mail to, the respective parties as follows:

County of Inyo	
Public Works	Department
168 N. Edwards	Street
Indepencence CA 93526	City and State

Contractor:

Astro Painting Co. Inc.	Name
2988 S. Citrus St.	Street
West Covina CA 91791	City and State

25. ENTIRE AGREEMENT.

This Agreement contains the entire agreement of the parties, and no representations, inducements, promises, or agreements otherwise between the parties not embodied herein or incorporated herein by reference, shall be of any force or effect. Further, no term or provision hereof may be changed, waived, discharged, or terminated, unless the same be in writing executed by the parties hereto.

AGREEMENT BETWEEN COUNTY OF INYO
AND Astro Painting Co. Inc.
FOR THE PROVISION OF painting and stucco repair **SERVICES**

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS _____ DAY _____, _____.

COUNTY OF INYO

By:_____

Dated:_____

CONTRACTOR

By:_____
Signature

_____
Type or Print Name

Dated:_____

APPROVED AS TO FORM AND LEGALITY:

_____
County Counsel

APPROVED AS TO ACCOUNTING FORM:

_____
County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

_____
Personnel Services

APPROVED AS TO INSURANCE REQUIREMENTS:

_____
County Risk Manager

ATTACHMENT A

AGREEMENT BETWEEN COUNTY OF INYO

AND Astro Painting Co. Inc.

FOR THE PROVISION OF painting and stucco repair SERVICES

TERM:

FROM: May 1, 2014 **TO:** June 30, 2014

SCOPE OF WORK:

The repair and or replacement of the existing stucco and the repainting/refinishing of the existing doors and windows on the American Legion Hall building located at 205 South Edwards Street, Independence CA 93526. The existing finish is in varying states of failure and will require thorough inspection.

The new finish will match the existing finish relative to texture and feature a two color scheme, colors to be pre-selected by the County. Existing windows will be scraped, sanded, reglazed as necessary, primed and painted. The existing doors will require stripping, sanding and staining to match the original finish.

Finish will require the application of one coat Dunn Edwards primer or a pre-approved equivalent and the application of two coats, Dunn Edwards Elastomeric paint or pre-approved equivalent.

ATTACHMENT B

AGREEMENT BETWEEN COUNTY OF INYO
AND Astro Painting Co. Inc.
FOR THE PROVISION OF painting and stucco repair **SERVICES**

TERM:

FROM: May 1, 2014 **TO:** June 30, 2014

SEE ATTACHED INSURANCE PROVISIONS

Specifications 1

Insurance Requirements for Most Contracts

(Not for Professional Services or Construction Contracts)

Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the Contractor, his agents, representatives, employees or subcontractors.

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL)**: Insurance Services Office (ISO) Form CG 00 01 12 07 covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than **$1,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability:** ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than **$500,000** per accident for bodily injury and property damage.
3. **Workers' Compensation:** as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than **$1,000,000** per accident for bodily injury or disease.

If the contractor maintains higher limits than the minimums shown above, the Entity requires and shall be entitled to coverage for the higher limits maintained by the contractor.

Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

Additional Insured Status

The Entity, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used).

Primary Coverage

For any claims related to this contract, the Contractor's insurance coverage shall be primary insurance as respects the Entity, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the Entity, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

Notice of Cancellation

Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the Entity.

Waiver of Subrogation

Contractor hereby grants to Entity a waiver of any right to subrogation which any insurer of said Contractor may acquire against the Entity by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the Entity has received a waiver of subrogation endorsement from the insurer.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the Entity. The Entity may require the Contractor to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the Entity.

Verification of Coverage

Contractor shall furnish the Entity with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the Entity before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The Entity reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Special Risks or Circumstances

Entity reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

☒ Consent ☐ Departmental ☐ Correspondence Action

☐ Public Hearing ☐ Schedule time for ☐ Closed Session ☐ Informational

For Clerk's Use Only:
AGENDA NUMBER
20

FROM: Department of Public Works/Road

FOR THE BOARD MEETING OF: April 15, 2014

SUBJECT: Purchase of cold mix asphalt for Shoshone Road District.

DEPARTMENTAL RECOMMENDATIONS:

1. Declare Wulfenstein Construction Company as a sole source provider of cold mix asphalt.
2. Approve the purchase order to Wulfenstein Construction Company in an amount not to exceed $13,365.00 for the purchase of 150 tons of cold mix asphalt.

CAO RECOMMENDATIONS:

SUMMARY DISCUSSION:

The Road Department would like to purchase 150 tons of cold mix asphalt for maintenance work on roads in the Shoshone Road District. Wulfenstein Construction Company of Pahrump, NV, is the only supplier of cold mix asphalt in that area. They provided a quote of $82.50 per ton, for a total amount of $13,365.00 which includes tax in the amount of $990.00.

ALTERNATIVES:

Not declare Wulfenstein Construction Company as sole provider. This is not recommended, Wulfenstein is the only provider in the Shoshone/Pahrump area.

OTHER AGENCY INVOLVEMENT:

Purchasing Department, Auditor's Office.

FINANCING:
The funding for these asphalt materials is available in the Road Department Budget Unit 034600, Object Code 5309 – Road Materials.

APPROVALS		
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (Must be reviewed and approved by County Counsel prior to submission to the board clerk.) Margaret Kemp-Williams	Approved: Yes Date 04/02/14
AUDITOR/CONTROLLER	ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the auditor/controller prior to submission to the board clerk.)	Approved: Yes Date 4/2/14
PERSONNEL DIRECTOR	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)	Approved: Date

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) _____ Date: 4/2/14

Sole Source Justification Form

Sole Source: A unique service or item that is only available from a single source or one source is the only practical way to respond to overriding circumstances. The lack of planning is not an overriding circumstance.

This is a sole source because:

☐ There is only one known source because:

- ☐ This is a sole provider of a licensed, copyrighted, or patented good or service.
- ☐ This is a sole provider of items compatible with existing equipment or systems.
- ☐ This is a sole provider of factory-authorized warranty service.
- ☐ This is a sole provider of goods or services that perform the intended function or meet the specialized needs of the Authority (Please detail in an attachment).

☒ One source is the only practical way to respond to overriding circumstances that make compliance with competitive procedures under the Authority's policies not in the best interest of the Authority (Please detail in an attachment).

Please attach a memorandum to explain why the goods or services are not available elsewhere include names and phone numbers of firms contacted.

- Other brands/manufacturers considered
- Other suppliers considered
- Other (i.e., emergency)

Describe the item or service, its function and the total cost estimate (if practical, separate labor and materials) in the space below or in a separate attached label: Description of Item or Service. **Wulfenstein Construction is only provider in the Pahrump Nev. Area that makes Cold Mixed Asphalt. Due to the location of the Tecopa/Shoshone Yard the cost of our personnel picking up and delivering cold mix to the Tecopa/Shoshone yard from other companies is prohibitive.**	
DEPARTMENT CONTACT PERSON & TITLE Twila Koepp	
DEPARTMENT NAME Inyo County Road Department	PHONE 760-878-0202
REQUESTED SUPPLIER/CONSULTANT NAME Wulfenstein Construction Co., Inc. PO Box 38, 2281 E. Postal Drive Pahrump, Nev. 89041	SUPPLIER CONTACT PERSON LoaDel Fisher
	SUPPLIER CONTACT'S PHONE NUMBER 775-727-5900

By signing below, Requestor acknowledges that he/she has read and understands the Authority's policy on sole source procurements.

_____ _____

Signature of Requestor *Date*

_____ _____

President/CEO Approval *Date*

P.O. Box 38 • 2281 E. Postal Drive • Pahrump, NV 89041
(775) 727-5900 • FAX (775) 727-6010

Wulfenstein
CONSTRUCTION CO., INC.

To: Inyo County Road Department

From: LoaDel Fisher

Re: Cold Mix Quote

Date: March 27, 2014

Cold Mix is $82.50 per ton picked up. For 150 tons, it would be a total of $12,375.00. Thank you.

Wulfenstein Construction Co., Inc.

By LoaDel Fisher
LoaDel Fisher

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

☐ Consent ☒ Departmental ☐ Correspondence Action ☐ Public Hearing
☐ Schedule time for ☐ Closed Session ☐ Informational

For Clerk's Use Only:
AGENDA NUMBER
21

FROM: Department of Public Works/Road

FOR THE BOARD MEETING OF: April 15, 2014

SUBJECT: Hertz Equipment contract amendment ratification

DEPARTMENTAL RECOMMENDATIONS:

Request your Board approve the ratification of a contract amendment with Hertz Equipment Rental increasing the not to exceed amount from $300,000 to $400,000. The original contract was secured utilizing bid #B123142027681P under the U.S. Communities Contract solicited through NC State University Contract #11624. The rental equipment was secured to expedite the emergency opening of numerous roads in the southern portion of the County. It is estimated that a minimum of ninety percent of these expenditures will be reimbursed. Contingent upon obtaining the appropriate signatures.

CAO RECOMMENDATION:

SUMMARY DISCUSSION:

On November 12, 2013 your Board took action amending the 2013/2014 FY Road Budget – 034600 increasing appropriations in Rents and Leases (Object Code #5281) by $675,000 and decreasing fund balance in Road Fund #0017 by $675,000. These funds were earmarked for the rental of numerous pieces of heavy equipment and the rental of owner operated trucks. Initial estimates identified the need for $375,000 to be utilized for the rental of owner operated trucks and $300,000 for the rental of heavy equipment. As of March 27, 2014 all emergency opening work utilizing rental equipment was complete. It is estimated that total costs associated with the Hertz Equipment Rental contract will not exceed $400,000. Costs incurred for the rental of owner operated trucks are estimated at $155,000, resulting in total costs for rental equipment of approximately $555,000 or $120,000 less than originally anticipated.

ALTERNATIVES:

Direct staff to return to the Board with additional information.

OTHER AGENCY INVOLVEMENT:

Inyo County Office of the County Counsel
Inyo County Auditors Office

FINANCING:

Funding for these expenditures are available in Budget Unit 034600 – Road, Object Codes 5265 Professional and Special Services and Object Code 5281 Rents and Leases.

APPROVALS		
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (Must be reviewed and approved by County Counsel prior to submission to the board clerk.) Margaret Kemp-Williams	Approved: Yes Date 04/02/14
AUDITOR/CONTROLLER	ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the auditor/controller prior to submission to the board clerk.)	Approved: yes Date 4/12/2014
PERSONNEL DIRECTOR	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)	Approved: _____ Date _____

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) _____ Date: 4/2/14

AMENDMENT NUMBER 1 TO
AGREEMENT BETWEEN THE COUNTY OF INYO AND
Hertz Equipment Rental Corporation
FOR THE PROVISION OF INDEPENDENT CONTRACTOR SERVICES

WHEREAS, the County of Inyo (hereinafter referred to as "County") and Hertz Equipment Rental Corporation, of Dallas, TX (hereinafter referred to as "Contractor"), have entered into an Agreement for the Provision of Independent Contractor Services dated November 12, 2013, on County of Inyo Standard Contract No. n/a, for the term from November 12, 2013 to March 31, 2014.

WHEREAS, County and Contractor do desire and consent to amend such Agreement as set forth below;

WHEREAS, such Agreement provides that it may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties thereto, if such amendment or change is in written form, and executed with the same formalities as such Agreement, and attached to the original Agreement to maintain continuity.

County and Contractor hereby amend such Agreement as follows:

This amendment of the original contract with Hertz Equipment Rental Corporation will increase the not to exceed amount from $300,000.00 to $400,000.00.

The effective date of this Amendment to the Agreement is April 8, 2014.

All the other terms and conditions of the Agreement are unchanged and remain the same.

AMENDMENT NUMBER 1 TO
AGREEMENT BETWEEN THE COUNTY OF INYO AND
Hertz Equipment Rental Corporation
FOR THE PROVISION OF INDEPENDENT CONTRACTOR SERVICES

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS _____ DAY OF _____, _____.

COUNTY OF INYO

By: _____

Dated: _____

CONTRACTOR

By: _____
Signature

_____
Type or Print

Dated: _____

APPROVED AS TO FORM AND LEGALITY:

Margaret Kemp-Williams
County Counsel

APPROVED AS TO ACCOUNTING FORM:

_____
County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

_____
Personnel Services

APPROVED AS TO RISK ASSESSMENT:

_____
County Risk Manager

For Clerks Use Only

AGENDA NUMBER

22

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

[X] Consent [] Departmental [] Correspondence Action [] Public Hearing

[] Scheduled Time for [] Closed Session [] Informational

FROM: Sheriff's Department

FOR THE BOARD MEETING OF: **April 15, 2014**

SUBJECT: Approval of the Drug Enforcement Administration (DEA) Domestic Cannabis Eradication/Suppression Grant

DEPARTMENTAL RECOMMENDATION:

Request the Board A) approve the 2014 Domestic Cannabis Eradication/Suppression Program Letter of Agreement in the amount of $10,000; B) authorize Sheriff Lutze to sign the agreement and all necessary documents; C) authorize Diane Fortney to sign on behalf of the Treasurer-Tax Collector as the authorized agency representative to enable electronic fund transfer when available; D) contingent upon adoption of the FY14/15 budget.

CAO RECOMMENDATION:

SUMMARY DISCUSSION:

The US Drug Enforcement is again offering local law enforcement agencies grants for cannabis eradication and suppression. Over the last couple of years, these funds have been instrumental in financing the eradication of the illegal marijuana grows found in our local mountains. This year's grant award is $10,000. The grant award will be used for flight time, equipment, and overtime. The DEA grant will enhance the Inyo Narcotic Teams ability to detect, identify, and apprehend suspects involved in illicit cannabis cultivation.

ALTERNATIVES:

Deny the grant and use existing county funds for cannabis enforcement.

OTHER AGENCY INVOLVEMENT:

FINANCING:

The DEA Grant award is $10,000 of federal funds designed to augment local law enforcement efforts to eradicate/suppress domestic cannabis. The funds will be budgeted in the FY 14/15 Domestic Cannabis Eradication/Suppression Budget Unit # 671507.

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS *(Must be reviewed and approved by county counsel prior to submission to the board clerk.)* Margaret Kemp-Williams Approved: ✓ Date 03/31/14
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (*Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)* Approved: yes Date 4/1/2014
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) Approved:_____ Date_____

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) 4-2-14 Date:

U. S. Department of Justice
Drug Enforcement Administration

Agreement Number 2014-22

This Letter of Agreement (LOA) is entered into between the ***INYO COUNTY SHERIFF'S OFFICE,*** hereinafter referred to as (***THE AGENCY),*** and the DRUG ENFORCEMENT ADMINISTRATION (DEA) OF THE UNITED STATES DEPARTMENT OF JUSTICE (DOJ), hereinafter referred to as DEA, in reference to the following:

There is evidence that trafficking in marijuana (cannabis) has a substantial and detrimental effect on the health and general welfare of the people of the ***State of California***. The parties hereto agree that it is to their mutual benefit to cooperate in locating and eradicating cannabis plants and to investigate and prosecute those cases before the courts of the United States (U.S.) and the courts of the ***State of California***. DEA, pursuant to the authority of 21 U.S.C. § 873, proposes to provide certain necessary funds and ***THE AGENCY*** is desirous of securing funds.

NOW, therefore, in consideration of the mutual covenants hereinafter contained, the parties hereto have agreed as follows:

1. ***THE AGENCY*** will, with its own law enforcement personnel and employees, as hereinafter specified, perform the activities and duties described below:

    a. Gather and report intelligence data relating to the cultivation, possession, and distribution of cannabis.
    b. Investigate and report instances involving the trafficking in controlled substances.
    c. Provide law enforcement personnel for the eradication of cannabis located within the ***State of California***.
    d. Make arrests and refer to the appropriate prosecutorial authority cases for prosecution under controlled substances laws and other criminal laws.
    e. Send required samples of eradicated cannabis to the National Institute on Drug Abuse (NIDA) Potency Monitoring Project.
    f. **MANDATORY requirement for *THE AGENCY* to utilize *the Web-based DEA internet Capability Endeavor(DICE) or if applicable the Firebird based DEA Analysis/Response Tracking System (DARTS) to report all statistics and seizures per incident, to include the submission of significant items for de-confliction and information sharing purposes.***
    g. Submit to DEA quarterly expenditure reports.

2. It is understood and agreed by the parties to this Agreement that the activities described in Sub-paragraphs a, b, c, d, e, f, and g of paragraph one shall be accomplished with existing personnel, and that the scope of ***THE AGENCY's*** program with respect to those activities by such personnel shall be solely at ***THE AGENCY's*** discretion, subject to appropriate limitations contained in the budget adopted by ***THE AGENCY***, except that ***THE AGENCY*** understands and agrees that DEA funds and

the result of expended funds (e.g. equipment, supplies and other resources) must be directly related to and must only be used for marijuana eradication program activities in a manner consistent with the Controlled Substances Act (CSA), 21 U.S.C. § 801 et seq.

3. DEA will pay to ***THE AGENCY*** Federal funds in the amount of **TEN THOUSAND DOLLARS ($10,000.00)** for the period of JANUARY 1, 2014, to DECEMBER 31, 2014, to defray costs relating to the eradication and suppression of cannabis. These Federal funds shall only be used for the eradication of cannabis as provided in this agreement. ***THE AGENCY*** understands and agrees that Federal funds provided to ***THE AGENCY*** under this Agreement will not be used to defray costs relating to herbicidal eradication of cannabis without the advance written consent of DEA. ***THE AGENCY*** understands and agrees that Federal funds will not be used to perform any of the following functions: (i) issuing licenses, permits, or other forms of authorization permitting the holder to manufacture, distribute, sell, or use marijuana in contravention of the CSA; (ii) conducting ancillary activities related to the issuance of such licenses and permits, such as background checks on applicants; (iii) collecting state or local tax or licensing revenue related to the manufacture, distribution, or sale of marijuana in contravention of the CSA; (iv) preparing or issuing regulations governing the manufacture, distribution, sale, or possession of marijuana in contravention of the CSA; or (v) monitoring compliance with state or local laws or regulations that permit the manufacture, distribution, sale, or use marijuana in contravention of the CSA. The result of expended funds (e.g. equipment, supplies and other resources) must be directly related to and must only be used for marijuana eradication activities. While using the Federal funds provided to ***THE AGENCY*** under this Agreement for activities on Federal land, ***THE AGENCY*** agrees to notify the appropriate local office of the U.S. Department of Agriculture, (Forest Service) and the U.S. Department of the Interior (Bureau of Land Management, National Park Service, Fish and Wildlife Service, Bureau of Indian Affairs, and/or Bureau of Reclamation) of ***THE AGENCY*'s** presence on Federal land.

4. The Federal funds provided to ***THE AGENCY*** are primarily intended for payment of deputies'/officers' overtime while those deputies and officers are directly engaged in the cannabis eradication process, **(per DOJ policy, the annual maximum overtime reimbursement rate is based on the current year General Pay Scale / rest of the United States and cannot exceed 25% of a GS-12, Step 1; the funds shall only be used to pay the normal overtime rate, i.e. time and a half. The overtime reimbursement rate "shall not include any cost for benefits, such as retirement, FICA, or other expenses", which is specifically prohibited by DOJ)** and for per diem and other direct costs related to the actual conduct of cannabis eradication. Examples of such costs includes rental of aircraft, fuel for aircraft, and minor repairs and maintenance necessitated by use to support cannabis eradication. These Federal funds are not intended as a primary source of funding for the purchase of equipment, supplies, or other resources. When Domestic Cannabis Eradication Suppression Program (DCE/SP) funds are used to purchase supplies, equipment, or other resources, those items must be directly related to and must only be used for marijuana eradication activities and may not be used to perform any of the following functions: (i) issuing licenses, permits, or other forms of authorization permitting the holder to manufacture, distribute, sell, or use marijuana in contravention of the CSA; (ii) conducting ancillary activities related to the issuance of such licenses and permits, such as background checks on applicants; (iii) collecting state or local tax or licensing revenue related to the manufacture, distribution, or sale of marijuana in contravention of the CSA; (iv) preparing or issuing regulations governing the manufacture, distribution, sale, or possession of marijuana in contravention of the CSA; or (v) monitoring

compliance with state or local laws or regulations that permit the manufacture, distribution, sale, or use marijuana in contravention of the CSA. ***[Agency Initial_____]***

All purchases of equipment, supplies and other resources must have approval from DEA. Procurement of these items is subject to the following approval authority: LOA expenditures up to $2,500 will be approved at DEA Division level. When expenditures exceed $2,500, prior to the purchase being made, the LOA must request authorization in writing, ***through*** the respective DEA Division, ***to OMS***. Requests must include manufacturer specifications and pricing of the item (including tax, if applicable) to be purchased. OMS will notify the state/local agency whether or not the purchase has been approved. Unless specifically approved in advance, expenditures for equipment should not exceed 10% of the total Federal funds awarded. Although equipment, supplies, and other resources may be specifically itemized in the Operation Plan, **they are not automatically approved for purchase**. All requests for purchases must be received in HQ/OMS by October 15th. Exemptions to any of these requirements must have prior HQ/OMS approval.

Per the DOJ, none of the funds allocated to you may be used to purchase promotional items, gifts, mementos, tokens of appreciation, or other similar items. Prohibited purchases include items justified as training aids if they are embossed, engraved or printed with ***THE AGENCY*** or program logos. Additionally, the use of DCE/SP funds for Demand Reduction expenses is no longer authorized.

5. In compliance with Section 623 of Public Law 102-141, ***THE AGENCY*** agrees that no amount of these funds shall be used to finance the acquisition of goods or services unless ***THE AGENCY***:

(a) Specifies in any announcement of the awarding of the contract for the procurement of the goods and services involved the amount of Federal funds that will be used to finance the acquisition; and
(b) Expresses the amount announced pursuant to paragraph (a) as a percentage of the total cost of the planned acquisition.

The above requirements only apply to procurements for goods or services that have an aggregate value of $500,000 or more. Any goods or services acquired under this provision of the agreement must be directly related to and must only be used for marijuana eradication activities and may not be used to perform any of the following functions: (i) issuing licenses, permits, or other forms of authorization permitting the holder to manufacture, distribute, sell, or use marijuana in contravention of the CSA; (ii) conducting ancillary activities related to the issuance of such licenses and permits, such as background checks on applicants; (iii) collecting state or local tax or licensing revenue related to the manufacture, distribution, or sale of marijuana in contravention of the CSA; (iv) preparing or issuing regulations governing the manufacture, distribution, sale, or possession of marijuana in contravention of the CSA; or (v) monitoring compliance with state or local laws or regulations that permit the manufacture, distribution, sale, or use marijuana in contravention of the CSA.

6. If DEA approves the purchase of supplies (all tangible personal property other than "equipment" as defined by 28 C.F.R. § 66.32/66.33), and there is a residual inventory of unused supplies exceeding $5,000 in total aggregate fair market value upon termination or completion of this Agreement, and if the supplies are not needed for any other federally sponsored programs or

projects, ***THE AGENCY*** shall compensate DEA for DEA's share and in any case the supplies will not be used directly or indirectly to support any state, county or local entity that authorizes cultivating marijuana or has direct oversight or regulatory responsibilities for a state authorized marijuana program. ***THE AGENCY*** agrees that any unused supplies not exceeding $5,000 in total aggregate fair market value upon termination or completion of this Agreement will either be used for the marijuana eradication activities, returned to DEA, or destroyed, but in any case will not be used to perform any of the following functions: (i) issuing licenses, permits, or other forms of authorization permitting the holder to manufacture, distribute, sell, or use marijuana in contravention of the CSA; (ii) conducting ancillary activities related to the issuance of such licenses and permits, such as background checks on applicants; (iii) collecting state or local tax or licensing revenue related to the manufacture, distribution, or sale of marijuana in contravention of the CSA; (iv) preparing or issuing regulations governing the manufacture, distribution, sale, or possession of marijuana in contravention of the CSA; or (v) monitoring compliance with state or local laws or regulations that permit the manufacture, distribution, sale, or use marijuana in contravention of the CSA.

7. If DEA approves the purchase of equipment (tangible, non-expendable personal property having a useful life of more than one year and an acquisition cost of $5,000 or more per unit) for the use of ***THE AGENCY***'s personnel engaged in cannabis eradication under this Agreement, ***THE AGENCY*** will use, manage, and dispose of the equipment in accordance with 28 C.F.R. § 66.32/66.33, except that in no case, regardless of useful life and acquisition cost, will the equipment be used directly or indirectly to perform any of the following functions: (i) issuing licenses, permits, or other forms of authorization permitting the holder to manufacture, distribute, sell, or use marijuana in contravention of the CSA; (ii) conducting ancillary activities related to the issuance of such licenses and permits, such as background checks on applicants; (iii) collecting state or local tax or licensing revenue related to the manufacture, distribution, or sale of marijuana in contravention of the CSA; (iv) preparing or issuing regulations governing the manufacture, distribution, sale, or possession of marijuana in contravention of the CSA; or (v) monitoring compliance with state or local laws or regulations that permit the manufacture, distribution, sale, or use marijuana in contravention of the CSA.

8. Payment by DEA to ***THE AGENCY*** will be in accordance with a schedule determined by DEA and said payment will be made pursuant to the execution by ***THE AGENCY*** of a Request for Advance or Reimbursement (SF-270) and receipt of same by DEA. However, no funds will be paid by DEA to ***THE AGENCY*** under this Agreement until DEA has received to its satisfaction an accounting of the expenditures of all funds paid to ***THE AGENCY*** during the previous year Agreement. The final/closeout expenditure report will be documented on a Financial Status Report (SF-425) and an October thru December (FINAL) Accounting Form.

9. It is understood and agreed by ***THE AGENCY*** that, in return for DEA's payment to ***THE AGENCY*** of Federal funds, ***THE AGENCY*** will comply with all applicable Federal statutes, regulations, guidance, and orders, including OMB Circular A-102 (administrative requirements), OMB Circular A-87 (cost principles, codified at 2 C.F.R. Part 225), OMB Circular A-133 "Audits of States, Local Governments, and Non-Profit Organizations", 28 C.F.R. Part 66 (grants management common rule), 2 C.F.R. § 2867 (non-procurement suspension & debarment), 28 C.F.R. Part 83 (Drug-Free Workplace Act common rule), 28 C.F.R. Part 69 (Byrd Anti-Lobbying Amendment common rule), and DOJ Order 2900.8A (June 20, 1990). The Financial Guide

published by the office of the Comptroller, Office of Justice Programs, U.S. Department of Justice contains helpful information regarding compliance requirements. OMB Circular A-133 is available at http://www.whitehouse.gov/omb/circulars/a133/a133.html. In conjunction with the beginning date of the award, the audit report period of ***THE AGENCY*** under the single audit requirement is **01/01/2014** through **12/31/2014**.

10. ***THE AGENCY*** acknowledges that arrangements have been made for any required financial and compliance audits and audits will be made within the prescribed audit reporting cycle. ***THE AGENCY*** understands that failure to furnish an acceptable audit as determined by the cognizant Federal agency may be a basis for denial of future Federal funds and/or refunding of Federal funds and may be a basis for limiting ***THE AGENCY*** to payment by reimbursement on a cash basis. ***THE AGENCY*** further understands that its use of DEA funds or the result of expended DEA funds (e.g. equipment, supplies and other resources) for any use other than the marijuana eradication program activities, including but not limited to its use directly or indirectly to perform any of the following functions: (i) issuing licenses, permits, or other forms of authorization permitting the holder to manufacture, distribute, sell, or use marijuana in contravention of the CSA; (ii) conducting ancillary activities related to the issuance of such licenses and permits, such as background checks on applicants; (iii) collecting state or local tax or licensing revenue related to the manufacture, distribution, or sale of marijuana in contravention of the CSA; (iv) preparing or issuing regulations governing the manufacture, distribution, sale, or possession of marijuana in contravention of the CSA; or (v) monitoring compliance with state or local laws or regulations that permit the manufacture, distribution, sale, or use marijuana in contravention of the CSA, will be a basis for denial of future Federal funds and/or refunding of Federal funds and may be a basis for limiting ***THE AGENCY*** to payment by reimbursement on a cash basis.

11. ***THE AGENCY*** shall maintain complete and accurate reports, records, and accounts of all obligations and expenditures of DEA funds under this Agreement in accordance with generally accepted government accounting principles and in accordance with state laws and procedures for expending and accounting for its own funds. ***THE AGENCY*** shall further maintain its records of all obligations and expenditures of DEA funds under this Agreement in accordance with all instructions provided by DEA to facilitate on-site inspection and auditing of such records and accounts.

12. ***THE AGENCY*** shall permit and have available for examination and auditing by DEA, the U.S. Department of Justice Office of Inspector General, the Government Accountability Office, and any of their duly authorized agents and representatives, any and all investigative reports, records, documents, accounts, invoices, receipts, and expenditures relating to this Agreement. In addition, ***THE AGENCY*** will maintain all such foregoing reports and records for three years after termination of this Agreement or until after all audits and examinations are completed and resolved, whichever is longer.

13. ***THE AGENCY*** agrees that an authorized officer or employee will execute and return to the DEA Regional Contractor, the LOA; Request for Advance or Reimbursement (SF-270); Electronic Funds Transfer Memorandum; Certifications Regarding Lobbying; Debarment, Suspension, & Other Responsibility Matters; Drug Free Workplace Requirements (OJP Form 406 1/6); and the Assurances (OJP Form 4000/3). ***THE AGENCY*** acknowledges that this Agreement will not take effect and that no Federal funds will be awarded by DEA until DEA receives the completed LOA package.

14. Employees of ***THE AGENCY*** shall at no time be considered employees of the U.S. Government or DEA for any purpose, nor will this Agreement establish an agency relationship between ***THE AGENCY*** and DEA.

15. ***THE AGENCY*** shall be responsible for the acts or omissions of ***THE AGENCY's*** personnel. ***THE AGENCY*** and ***THE AGENCY's*** employees shall not be considered as the agent of any other participating entity. Nothing herein is intended to waive or limit sovereign immunity under other federal or state statutory or constitutional authority. This Agreement creates no liability on the part of the DEA, its agents or employees, or the U.S. Government for any claims, demands, suits, liabilities, or causes of action of whatever kind and designation, and wherever located in the **State of California** resulting from the DCE/SP funded by DEA.

16. ***THE AGENCY*** shall comply with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, as amended, and all requirements imposed by or pursuant to the regulations of the U.S. Department of Justice implementing those laws, 28 C.F.R. Part 42, Subparts C, F, G, H, and I.

17. Within thirty (30) days after termination of the Agreement, ***THE AGENCY*** will prepare an October thru December (FINAL) Accounting Form and a Financial Status Report SF-425, itemizing the breakdown of final expenditures. The October thru December (FINAL) Accounting Form and the SF-425, along with a refund check, payable to DEA funds not obligated or expended funds which were advanced by DEA pursuant to this Agreement, will be returned to the DEA Regional Contractor by January 31st.

18. Upon submission of the October – December (FINAL) Accounting Form and Financial Status Report SF- 425 to your regional contractor for the preceding year, a copy of the general ledger and the underlying supporting documentation reflecting the expenditures for equipment in excess of $2,500, that was previously approved by OMS, and the expenses associated with the rental or leasing of vehicles or aircraft must be attached.

19. The duration of this Agreement shall be as specified in Paragraph 3, except that this Agreement may be terminated by either party after 30 day written notice to the other party. All obligations that are outstanding on the above prescribed termination date or on the date of any thirty (30) day notice of termination shall be liquidated by ***THE AGENCY*** within sixty (60) days thereof, in which event DEA will only be liable for obligations incurred by ***THE AGENCY*** during the terms of this Agreement. In no event shall ***THE AGENCY*** incur any new obligations during the period of notice of termination. ***THE AGENCY*** shall return to DEA all unexpended funds forthwith after the sixty (60) day liquidation period. In the event that the agreement is terminated, any DEA funds that have been obligated or expended and the result of expended funds (e.g. equipment, supplies and other resources) will be used and disposed of in accordance with the provisions of this agreement.

20. ***THE AGENCY*** must be registered in the System for Award Management (SAM) to receive payment of Federal funds. There are two steps to registering in SAM. **First,** ***THE AGENCY*** must have a Data Universal Numbering System (DUNS) number. [A "+4 extension" to a DUNS number (DUNS+4) is required when there is a need for more than one bank/electronic funds transfer account for a location.] A DUNS number may be obtained via the internet (http://fedgov.dnb.com/webform)

or by phone (U.S. and U.S. Virgin Islands: 1-866-705-5711; Alaska and Puerto Rico: 1-800-234-3867). **Second,** ***THE AGENCY*** must then register with SAM via the internet SAM www.sam.gov. Questions regarding the internet registration process may be directed to 1-866-606-8220 (follow the prompts for SAM). Both the DUNS number and registration in SAM are free of charge.

Note: It is *THE AGENCY*'s responsibility to update their SAM registration annually or whenever a change occurs.

***THE AGENCY*'s** current DUNS No. is _____.

***THE AGENCY*'s** opportunity to enter into this Agreement with DEA and to receive the Federal funds expires sixty days from date of issuance. Agreement issued on 03/21/2014 .

INYO COUNTY SHERIFF'S OFFICE

By:_____

Title:_____ Date:_____

***Agency**, please submit original signed LOA & associated paperwork to your DEA Regional Contractor.*

DRUG ENFORCEMENT ADMINISTRATION

By:_____ Date:_____
Special Agent in Charge
San Francisco Field Division

***SAC**, please submit original signed LOA & associated paperwork to your Fiscal Office.*

DEA DIVISIONAL FISCAL CLERK MUST INPUT INTO UFMS & COMPLETE THE BOTTOM OF THIS SECTION

ACCOUNTING CLASSIFICATION/OBLIGATION NUMBER:

2014/S1R/OM/8210000/DOM-G2/01IB/DCE/OPS:_____

_____

UFMS Input Date:_____ **CT** No. _____

IO No. _____ **DP** No._____

Printed Name: _____ Signature:_____

***Fiscal,** please submit original signed LOA & associated paperwork to your DEA Regional Contractor.*

Memorandum

Subject	Date
Electronic Funds Transfer (DFN: 601-13)	March 21, 2014

To

All Domestic Cannabis Eradication/Suppression Program (DCE/SP) Participating Agencies

From

Don A. Hibbert
Chief, Investigative Support Section
DEA Headquarters

Funding for the Domestic Cannabis Eradication/Suppression Program (DCE/SP) is only available by electronic transfer. Funds will be transferred directly into the Letter of Agreement (LOA) agency's bank account. In order to process electronic transfers, the following information must be provided below:

Agency Name on Bank Account: Inyo County Treasury General

Account Number: 2740013710

Name of Bank/Financial Institution: Union Bank

Address of Bank/Financial Institution: 445 S. Figueroa St., 8th Flr Los Angeles, Ca. 90071

Telephone Number of Bank/Financial Institution: (800) 798-6466

Contact Person of Bank/Financial Institution: Eileen Lew Perez

Bank/Financial Institution ABA Number: 122004996

Diane Fortney, Asst. Treasurer-Tax Collector
Authorized Agency Representative (Name & Title

Diane Fortney
Signature of Authorized Agency Representative

3/25/14
Date

13. CERTIFICATION		
I certify that to the best of my knowledge and belief the data on the reverse are correct and that all outlays were made in accordance with the grant conditions or other agreement and that payment is due and has not been previously requested.	SIGNATURE OR AUTHORIZED CERTIFYING OFFICIAL	DATE REQUEST SUBMITTED
	TYPED OR PRINTED NAME AND TITLE	TELEPHONE (AREA CODE, NUMBER AND EXTENSION)

This space for agency use

Public reporting burden for this collection of information is estimated to average 60 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0004), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

INSTRUCTIONS

Please type or print legibly. Items 1, 3, 5, 9, 10, 11e, 11f, 11g, 11i, 12 and 13 are self-explanatory; specific instructions for other items are as follows:

Item	*Entry*
2	Indicate whether request is prepared on cash or accrued expenditure basis. All requests for advances shall be prepared on a cash basis.
4	Enter the Federal grant number, or other identifying number assigned by the Federal sponsoring agency. If the advance or reimbursement is for more than one grant or other agreement, insert N/A; then, show the aggregate amounts. On a separate sheet, list each grant or agreement number and the Federal share of outlays made against the grant or agreement.
6	Enter the employer identification number assigned by the U.S. Internal Revenue Service, or the FICE (institution) code if requested by the Federal agency.
7	This space is reserved for an account number or other identifying number that may be assigned by the recipient.
8	Enter the month, day, and year for the beginning and ending of the period covered in this request. If the request is for an advance or for both an advance and reimbursement, show the period that the advance will cover. If the request is for reimbursement, show the period for which the reimbursement is requested.
Note:	The Federal sponsoring agencies have the option of requiring recipients to complete items 11 or 12, but not both. Item 12 should be used when only a minimum amount of information is needed to make an advance and outlay information contained in item 11 can be obtained in a timely manner from other reports.
11	The purpose of the vertical columns (a), (b), and (c) is to provide space for separate cost breakdowns when a project has been planned and budgeted by program, function, or activity. If additional columns are needed, use as many additional forms as needed and indicate page number in space provided in upper right; however, the summary totals of all programs, functions, or activities should be shown in the "total" column on the first page.
11a	Enter in "as of date," the month, day, and year of the ending of the accounting period to which this amount applies. Enter program outlays to date (net of refunds, rebates, and discounts), in the appropriate columns. For requests prepared on a cash basis, outlays are the sum of actual cash disbursements for goods and services, the amount of indirect expenses charged, the value of in-kind contributions applied, and the amount of cash advances and payments made to subcontractors and subrecipients. For requests prepared on an accrued expenditure basis, outlays are the sum of the actual cash disbursements, the amount of indirect expenses incurred, and the net increase (or decrease) in the amounts owed by the recipient for goods and other property received and for services performed by employees, contracts, subgrantees and other payees.
11b	Enter the cumulative cash income received to date, if requests are prepared on a cash basis. For requests prepared on an accrued expenditure basis, enter the cumulative income earned to date. Under either basis, enter only the amount applicable to program income that was required to be used for the project or program by the terms of the grant or other agreement.
11d	Only when making requests for advance payments, enter the total estimated amount of cash outlays that will be made during the period covered by the advance.
13	Complete the certification before submitting this request.

U.S. Department of Justice
Office of Justice Programs
Office of the Comptroller

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 28 CFR Part 69, "New Restrictions on Lobbying" and 28 CFR Part 67, "Government-wide Debarment and Suspension (Nonpro-curement) and Government-wide Requirements for Drug- Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Justice determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 28 CFR Part 69, for persons entering into a grant or cooperative agreement over $100,000, as defined at 28 CFR Part 69, the applicant certifies that:

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

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

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS (DIRECT RECIPIENT)

As required by Executive Order 12549, Debarment and Suspension, and implemented at 28 CFR Part 67, for prospective participants in primary covered transactions, as defined at 28 CFR Part 67, Section 67.510--

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of Federal benefits by a State or Federal court, or voluntarily excluded from covered transactions by any Federal department or agency;

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

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 28 CFR Part 67, Subpart F, for grantees, as defined at 28 CFR Part 67 Sections 67.615 and 67.620--

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about--

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant,

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Department of Justice, Office of Justice Programs, ATTN: Control Desk, 810 7 th Street, N.W., Washington, D.C. 20531. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted--

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

_____

_____

_____

Check ___if there are workplaces on file that are not identified here.

Section 67, 630 of the regulations provides that a grantee that is a State may elect to make one certification in each Federal fiscal year. A copy of which should be included with each application for Department of Justice funding. States and State agencies may elect to use OJP Form 4061/7.

Check ___if the State has elected to complete OJP Form 4061/7.

DRUG-FREE WORKPLACE
(GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 28 CFR Part 67, Subpart F, for grantees, as defined at 28 CFR Part 67; Sections 67.615 and 67.620--

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Department of Justice, Office of Justice

---

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

1. Grantee Name and Address:

2. Application Number and/or Project Name

3. Grantee IRS/Vendor Number

Agreement Number:

EIN:

4. Typed Name and Title of Authorized Representative

5. Signature

6. Date

*U.S. Government Printing Office: 1996 - 405-037/40014

ASSURANCES

The Applicant hereby assures and certifies compliance with all Federal statutes, regulations, policies, guidelines and requirements, including OMB Circulars No. A-21, A-87, A-110, A-122, A-133; E.O. 12372 and Uniform Administrative Requirements for Grants and Cooperative Agreements - 28 CFR, Part 66, Common rule, that govern the application, acceptance and use of Federal funds for this federally-assisted project. Also the Applicant assures and certifies that:

1. It possesses legal authority to apply for the grant; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body, authorizing the filing of the application, including all understandings and assurances containedtherein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and toprovide such additional information may be required.

2. It will comply with requirements of the provisions of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (P.L. 91-646) which provides for fair and equitable treatment of persons displaced as a result of Federal and federally - assisted programs.

3. It will comply with provisions of Federal law which limit certain political activities of employees of a State or local unit of government whose principal employment is in connection with an activity financed in whole or in part by Federal grants. (5 USC 1501, et seq.)

4. It will comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act if applicable.

5. It will establish safeguards to prohibit employees from using their positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.

6. It will give the sponsoring agency or the Comptroller General, through any authorized representative, access toand the right to examine all records, books, papers, or documents related to the grant.

7. It will comply with all requirements imposed by the Federal sponsoring agency concerning special requirements of law, program requirements, and other administrative requirements.

8. It will insure that the facilities under its ownership, lease or supervision which shall be utilized in the accomplishment of the project are not listed on the Environmental Protection Agency's (EPA)list of Violating Facilities and that it will notify the Federal grantor agency of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating that a facility to be used in the project is under consideration for listing by the EPA.

9. It will comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973, Public Law 93-234, 87 Stat. 975, approved December 31, 1976, Section 102(a) requires, on and after March 2, 1975, the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any Federal financial assistance for construction or acquisition purposes for usein any area that has been identified by the Secretary of the Department of Housing and Urban Development as an area having special flood hazards. The phrase "Federal financial assistance" includes any form of loan, grant, guaranty, insurancepayment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal assistance.

10. It will assist the Federal grantor agency in its compliance with Section 106 of the National Historic Preservation Act of 1966 as amended (16 USC 470), Executive Order 11593, and the Archeological and Historical Preservation Act of 1966 (16 USC 569 a-1 et seq.) by (a) consulting with the State Historic Preservation Officer on the conduct of investigations, as necessary, to identify properties listed in or eligible for inclusion in the National Register of Historic Places that are subject to adverse effects (see 36 CFR Part 800.8) by the activity, and notifying the Federal grantor agency of the existence of any such properties, and by (b) complying with all requirements established by the Federal grantor agency to avoid or mitigate adverse effects upon such properties.

11. It will comply, and assure the compliance of all its subgrantees and contractors, with the applicable provisions of Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, the Juvenile Justice and Delinquency Prevention Act, or the Victims of Crime Act, as appropriate; the provisions of the current edition of the Office of Justice Programs Financial and Administrative Guide for Grants, M7100.1; and all other applicable Federal laws, orders, circulars, or regulations.

12. It will comply with the provisions of 28 CFR applicable to grants and cooperative agreements including Part 18, Administrative Review Procedure; Part 20, Criminal Justice Information Systems; Part 22, Confidentiality of Identifiable Research and Statistical Information; Part 23, Criminal Intelligence Systems Operating Policies; Part 30, Intergove-rnmental Review of Department of Justice Programs and Activities; Part 42, Nondiscrimination/Equal Employment Opportunity Policies and Procedures; Part 61, Procedures for Implementing the National Environmental Policy Act; Part 63, Floodplain Management and Wetland Protection Procedures; and Federal laws or regulations applicable to Federal Assistance Programs.

13. It will comply, and all its contractors will comply, with the nondiscri-mination requirements of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, 42 USC 3789(d), or Victims of Crime Act (as appropriate); Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973, as amended; Subtitle A, Title II of the Americans with Disabilities Act (ADA) (1990); Title IX of the Education Amendments of 1972; the Age Discrimination Act of 1975; Department of Justice Non-Discrimination Regulations, 28 CFR Part 42, Subparts C, D, E, and G; and Department of Justice regulations on disability discrimination, 28 CFR Part 35 and Part 39.

14. In the event a Federal or State court or Federal or State administrative agency makes a finding of discrimination after a due process hearing on the grounds of race, color, religion, national origin, sex, or disability against a recipient of funds, the recipient will forward a copy of the finding to the Office for Civil Rights, Office of Justice Programs.

15. It will provide an Equal Employment Opportunity Program if required to maintain one, where the application is for $500,000 or more.

16. It will comply with the provisions of the Coastal Barrier Resources Act (P.L. 97-348) dated October 19, 1982 (16 USC 3501 et seq.) which prohibits the expenditure of most new Federal funds within the units of the Coastal Barrier Resources System.

Signature

Date

For Clerks Use Only

AGENDA NUMBER

23

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

[x] Consent [] Departmental [] Correspondence Action [] Public Hearing

[] Scheduled Time for [] Closed Session [] Informational

FROM: Sheriff's Department

FOR THE BOARD MEETING OF: **April 15, 2014**

SUBJECT: Approval of U.S. Forest Service Cooperative Law Enforcement Agreement for Controlled Substance Operations.

DEPARTMENTAL RECOMMENDATION:

Request the Board A) approve the application for the 2014 Financial & Operation Plan for Controlled Substance Operations U.S. Forest Service reimbursements in the amount of $7,769.24; B) authorize Sheriff Lutze and the Chairman of the Board to sign the agreement and all necessary documents; C) contingent upon adoption of the FY 14/15 budget.

CAO RECOMMENDATION:

SUMMARY DISCUSSION:

Marijuana cultivation within the Forest Service boundaries in Inyo County continues to increase. These include the areas from the Southern end of the county to the Northern end of the county. The Sheriff's Office has continued to work the cultivations with the U.S. Forest Service and BLM. Monies from this agreement will assist the Sheriff's Department in continuing to assist in these investigations and the eradication of thousands of marijuana plants within Inyo County. The marijuana-growing season starts in the spring, usually April or May and the harvesting season begins in August to September, as such, no expenditures or reimbursements are expected until FY 2014/15.

ALTERNATIVES:

Deny the agreements and use existing county funds for controlled substance operations.

OTHER AGENCY INVOLVEMENT:

FINANCING:

The U.S. Forest Service reimbursements total $7,769.24, to be billed and received in the 2014/15 fiscal year. The revenue will be budgeted in the Sheriff General (022700) budget for the FY 2014/15.

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS *(Must be reviewed and approved by county counsel prior to submission to the board clerk.)* Margaret Lemp-Williams Approved: ✓ Date 03/31/14
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (*Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)* Approved: yes Date 4/1/2014
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) Approved:_____ Date_____

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) Date: 4-2-14

FS Agreement No. 11-LE-11051360-220
Cooperator Agreement No.
Modification No.

EXHIBIT B

COOPERATIVE LAW ENFORCEMENT ANNUAL OPERATING PLAN & FINANCIAL PLAN
Between The
INYO COUNTY SHERIFF'S DEPARTMENT
And the
USDA, FOREST SERVICE
INYO NATIONAL FOREST

2014 CONTROLLED SUBSTANCE ANNUAL OPERATING AND FINANCIAL PLAN

This Annual Financial and Operating Plan (Annual Operating Plan), is hereby made and entered into by and between the Inyo County Sheriff's Department, hereinafter referred to as "ICS," and the USDA, Forest Service, Inyo National Forest, hereinafter referred to as the "U.S. Forest Service," under the provisions of Cooperative Law Enforcement Agreement #11-LE-11051360-220 executed on April 04, 2011. This Annual Operating Plan is made and agreed to as of the last date signed below and is for the estimated period beginning October 01, 2013 and ending September 30, 2014.

Previous Year Carry-over: $7,769.24
Current FY-14 Year Obligation: $0.00
FY-2014 Total Annual Operating Plan: **$7,769.24**

I. GENERAL:

A. The following individuals shall be the designated and alternate representative(s) of each party, so designated to make or receive requests for special enforcement activities.

Principle Cooperator Contacts:

Cooperator Program Contact	Cooperator Administrative Contact
William R. Lutz, Sheriff P.O. Drawer 'S' 550 South Clay Street Independence, CA 93526 **PHONE:** 760-878-0320 **FAX:** 760-878-0389 blutz@inyocounty.us	Janis Odum P.O. Drawer S Independence, CA 93526 **PHONE:** 760-878-0326 **FAX:** 760-878-0389 **Email:** jodum@inyocounty.us

Cooperator Alternate Contact	Cooperator Fiscal Contact
Juan Martinez P.O. Box Drawer S Independence, CA 93526 **PHONE:** 760-872-4053 **FAX:** 760-872-4074 jmartinez@inyocounty.us	Laurie Harner P.O. Drawer S Independence, CA 93526 **PHONE:** 760.878.0386 **FAX:** 760.878.0389 **Email:** lharner@inyocounty.us

Principle U.S. Forest Service Contacts:

U.S. Forest Service Program Manager Contact	U.S. Forest Service Administrative Contact
Jonathan (Scott) Glenn, Special Agent Stanislaus National Forest 19777 Greenley Road Sonora, CA 95370-5909 209-532-3671 x228 (office) **FAX:** 209-536-9829 **E-mail:** jglenn@fs.fed.us	Angela Cabada, Administrative Assistant Pacific Southwest Regional Office – LEI 1323 Club Drive Vallejo, CA 94592 707-562-8720 (office) **FAX:** 707-562-9031 **E-mail:** aocabada@fs.fed.us

U.S. Forest Service Program Coordinator Contact
Kent Delbon Assistant Special Agent in Charge Pacific Southwest Regional Office – LEI 1323 Club Drive Vallejo, CA 94592 707-562-8649 (office) **FAX:** 707-562-9031 **E-mail:** kdelbon@fs.fed.us

II. CONTROLLED SUBSTANCE OPERATIONS

Pursuant to IV- I of Agreement No. 11-LE-11051360-220, the following is in support of operations to suppress manufacturing and trafficking of controlled substances on or affecting the administration of National Forest System lands, with an emphasis on identification, apprehension and prosecution of suspects engaged in these activities:

A. The U.S. Forest Service agrees:

1. To reimburse ICS for expenditures associated with the detection of locations and activities related to illegal production and trafficking of controlled substances, including;

   a. Ground reconnaissance to identify and inventory locations and activities associated with producing or trafficking controlled substances.

   b. Aerial reconnaissance to identify and inventory locations and activities associated with producing or trafficking controlled substances. Reconnaissance shall be performed using a U.S. Forest Service approved aircraft with a minimum of one U.S. Forest Service observer on board, unless waived by the U.S. Forest Service.

2. To reimburse ICS for certain expenses resulting from investigative activities associated with investigating cases involving the illegal production or trafficking of controlled substances on or affecting the administration of National Forest system lands, including:

   a. Surveillance operations to identify persons illegally producing or trafficking controlled substances.

   b. Apprehension of persons suspected of producing or trafficking controlled substances.

   c. Collection of evidence to support prosecution of persons suspected of illegally producing or trafficking controlled substances.

   d. Prosecution of persons suspected of producing or trafficking controlled substances.

3. To reimburse ICS for expenses resulting from the removal of cannabis plants from National Forest System lands. When circumstances indicate that removal of the cannabis plants is required before an investigation to determine the person(s) responsible can be completed, eradication operations must be approved by the U.S. Forest Service prior to taking place.

   Note: ICS retains the authority to eradicate cannabis plants from National Forest System lands without reimbursement from the U.S. Forest Service at its discretion.

4. To reimburse ICS for the costs of purchasing supplies and equipment used exclusively for activities described in items A.1, A.2 and A.3 of this Plan. Purchases must be agreed to and approved by the U.S. Forest Service.

   Purchases may **not exceed 10% of the total allocation** without prior approval by the U.S. Forest Service Designated Representative.

B. ICS agrees:

1. Within its capability, to perform the following activities on National Forest System lands:

   a. Detect and inventory locations associated with illegal production or trafficking of controlled substances, and notify the U.S. Forest Service of such locations as soon as possible.
   b. Investigations to determine the person(s) responsible for manufacturing or trafficking controlled substances.

   c. Upon request and prior approval of the U.S. Forest Service, remove cannabis plants from National Forest System lands.

2. To furnish all activity reports, crime reports, investigation reports, and other reports or records, resulting from activities identified in **Section II**, **A** of this Operating and Financial Plan to the affected Forests for review and forwarding to the Regional Office for processing.

C. The U.S. Forest Service and ICS mutually agree to the following:

1. The following rate schedule will apply to all expenditures that may be reimbursed to ICS under this agreement;

Salary (base)	**$35.16** per hour,
Salary (overtime)	**$ base** + ½ per hour,
Per diem costs	**$34**/M&IE + **$55**/Lodging,
Travel (mileage and fares)	**Actual documented costs,**
Helicopter flight time	**Actual documented costs,**
Supplies or equipment	**Actual documented costs**

2. The total expenditures of ICS that may be reimbursed may not exceed.... **$7,769.24**. The total expenditures for item **A.4** may not exceed..... **10%** of the total allocation.

D. Any remaining funding in this Annual Operating Plan may be carried forward to the next fiscal year and will be available to spend through the term of the Cooperative Law Enforcement Agreement, or de-obligated at the request of the U.S. Forest Service. *See Cooperative Law Enforcement Agreement Provision IV-V.*

III. BILLING FREQUENCY:

See Cooperative Law Enforcement Agreement Provisions II-H and III-B for additional information.

ICS will furnish *monthly itemized statements* of expenses to the U.S. Forest Service for expenditures that may be reimbursed as identified in items II A.1, A.2, A.3, and A.4 of this Plan. Attachment A, Law Enforcement Billing Summary, Drug Enforcement, must be completed and submitted to the contacts in (a) below for each billing statement.

a. Mail copies of itemized billing statements (Attachment A) to:

Angela Cabada, PSA
Pacific Southwest Regional Office - LEI
1323 Club Drive
Vallejo, CA 94592

Jonathan (Scott) Glenn, Special Agent
Stanislaus National Forest
19777 Greenley Road
Sonora, CA 95370-5909

b. Send hard copy invoices to:

U.S. Forest Service
Albuquerque Service Center
Payments – Grants & Agreements
101 B Sun Ave NE
Albuquerque, NM 87109

Or fax to: (877) 687-4894

Or e-mail scanned invoice to: ASC_GA@fs.fed.us

c. Final billings for reimbursement on this Annual Operating Plan (AOP) must be received by the U.S. Forest Service before October 31, 2014 in order to receive payment.

d. Annually update the CCR registration of the County Sheriff's DUNS# on the Central Contractors Registration (CCR) website at www.ccr.gov for the verification of the EFT (Electronic Funds Transfer) banking information.

Job Code: NFLE0514 1360 $0.00

In witness whereof, the parties hereto have executed this Annual Operating Plan as of the last date written below.

Chairman, Board of Supervisors
Inyo County

Date

WILLIAM R. LUTZE, Sheriff
Inyo County, CA

Date

SCOTT HARRIS, Special Agent in Charge
U.S. Forest Service, Pacific Southwest Region

Date

The authority and format of this agreement has been reviewed and approved for signature.

Constance Zipp

24 January 2014

CONSTANCE ZIPPERER
U.S. Forest Service, Pacific Southwest Region
Grants Management Specialist

Date

Burden Statement

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0596-0217. The time required to complete this information collection is estimated to average 3 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD).

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call toll free (866) 632-9992 (voice). TDD users can contact USDA through local relay or the Federal relay at (800) 877-8339 (TDD) or (866) 377-8642 (relay voice). USDA is an equal opportunity provider and employer.

For Clerk's Use Only:
AGENDA NUMBER

24

AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

X Consent ☐ Departmental ☐ Correspondence Action ☐ Public Hearing

☐ Scheduled Time for ☐ Closed Session ☐ Informational

FROM: WATER DEPARTMENT

FOR THE BOARD MEETING OF: April 15, 2014

SUBJECT: Amendment No. 1 to the Contract between Ecosystem Sciences Inc. (ES) and the County of Inyo for MOU Consultant services for the Lower Owens River Project

DEPARTMENTAL RECOMMENDATION: Request Board approve Amendment No. 1 to the Contract between the County of Inyo and ES to revise the scope of work under Task 4 in their 2013-2014 contract, to allow ES to pay up to $1,200.00 in honorariums to fishermen who participate in and complete a creel census to be held in May of 2014. ES would also be allowed to bill up to $144.00 for administrative labor and expenses needed to complete this task by moving $1344 from Task 7 to Task 4 for the creel census, contingent on the appropriate signatures being obtained.

SUMMARY DISCUSSION:

On August 13, 2013, your Board approved the Contract between the County of Inyo and ES, for the provision of Biological Resources Consulting Services for the LORP, in an amount not to exceed $308,072 for the period of July 1, 2013 to June 30, 2014. In the scope of work, Task 4 description did not specifically include an honorarium for volunteer fishermen.

The LORP Monitoring, Adaptive Management and Reporting Plan allows that, "...the Scientific Team can recommend paying the fisherpersons a nominal fee." (*4.2.8.2 Creel Census)*. The 24 fisherpersons used for the creel census are volunteers directed by the LORP Scientific Team. In order to keep volunteers, and encourage them to complete their assignment in the May 2014 census, the Scientific Team recommends paying volunteers up to $50.00 for their service. Of the $10,378.00 budgeted for the creel census task, ES has billed $10,331.00. This cost to provide a stipend for the anglers is estimated at $1,200.00.

We propose that the scope of work under Task 4 be amended to specify that up to $1,200.00 can be spent to provide an honorarium to anglers who participate in, and complete their volunteer assignment. Additionally, $144.00 would be available to ES to administer the distribution of the funds to the anglers. The Water Department would conduct the activity and provide ES with the names and addresses of the participating anglers who completed their assignments, and ES would pay these individuals. ES would then bill the County for these expenses, which the Water Department would pay under their amended contract.

Current Task 4 contract language:

> The creel census helps track the development and health of the warm-water or game fishery as the LORP is implemented. Creel census data help to inform decision making for the fishery and water quality adaptive management areas. Adaptive management recommendations focus on establishing a healthy warm water fishery to meet MOU goals. ES will assist in the census and evaluating the results for the annual report. To assist with the Creel Census, ES will have to prepare for field observations, travel, and attend meetings with the Scientific Team to discuss the progress towards meeting the LORP objectives.

Creel Census		FY 2013-2014		
		Hours	Rate	Cost
Labor Estimate:				
Principals		64	$139	$8,896
Associates		10	$93	$930
Administration		8	$69	$552
Subtotal				**$10,378**

Proposed amended Task 4 contract language:

The creel census helps track the development and health of the warm-water or game fishery as the LORP is implemented. Creel census data help to inform decision making for the fishery and water quality adaptive management areas. Adaptive management recommendations focus on establishing a healthy warm water fishery to meet MOU goals. ES will assist in the census and evaluating the results for the annual report. To assist with the Creel Census, ES will have to prepare for field observations, travel, and attend meetings with the Scientific Team to discuss the progress towards meeting the LORP objectives. *ES will provide a stipend of up to $50.00 to an angler who participates in the creel census, and completes their assignment.*

Budget:

Creel Census		FY 2013-2014		
		Hours	Rate	Cost
Labor Estimate:				
Principals		64	$139	$8,896
Associates		10	$93	$930
Administration		8	$69	$552
Creel Census Honorarium			$1,200	$1,200
Honorarium Distribution			$144	$144
Subtotal				**$11,722**

ALTERNATIVES:

OTHER AGENCY INVOLVEMENT:

FINANCING: The contract has been budgeted in the 2013-14 Water Department budget (024102) professional services (5265) and will be funded by the LORP Trust Account (504103). The change in the task description will have no effect on the total amount allowed under the existing contract.

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS *(Must be reviewed and approved by county counsel prior to submission to the board clerk.)* Margaret Kemp-Williams Approved: ✓ Date 03/31/2014
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (*Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)* Approved: yes Date 4/2/2014
PERSONNEL DIRECTOR: N/A	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) Approved:_____ Date_____

DEPARTMENT HEAD SIGNATURE: Date: 4/2/14
(Not to be signed until all approvals are received)
(The Original plus 20 copies of this document are required)

AMENDMENT NUMBER ONE TO
AGREEMENT BETWEEN THE COUNTY OF INYO AND
ECOSYSTEM SCIENCES
FOR THE PROVISION OF INDEPENDENT CONTRACTOR SERVICES

WHEREAS, the County of Inyo (hereinafter referred to as "County") and ECOSYSTEM SCIENCES, of BOISE, IDAHO (hereinafter referred to as "Contractor"), have entered into an Agreement for the Provision of Independent Contractor Services dated AUGUST 13, 2013, on County of Inyo Standard Contract No. 156, for the term from JULY 1, 2013 to JUNE 30, 2014.

WHEREAS, County and Contractor do desire and consent to amend such Agreement as set forth below;

WHEREAS, such Agreement provides that it may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties thereto, if such amendment or change is in written form, and executed with the same formalities as such Agreement, and attached to the original Agreement to maintain continuity.

County and Contractor hereby amend such Agreement as follows:

Amend Scope of Work, Task 4 to read as follows:

The creel census helps track the development and health of the warm-water or game fishery as the LORP is implemented. Creel census data help to inform decision making for the fishery and water quality adaptive management areas. Adaptive management recommendations focus on establishing a healthy warm water fishery to meet MOU goals. ES will assist in the census and evaluating the results for the annual report. To assist with the Creel Census, ES will have to prepare for field observations, travel, and attend meetings with the Scientific Team to discuss the progress towards meeting the LORP objectives. ES will provide a stipend of up to $50.00 to an angler who participates in the creel census, and completes their assignment.

Creel Census		FY 2013-2014		
		Hours	Rate	Cost
Labor Estimate:				
Principals		64	$139	$8,896
Associates		10	$93	$930
Administration		8	$69	$552
Creel Census Honorarium			$1,200	$1,200
Honorarium Distribution			$144	$144
Subtotal				$11,722

~~The~~ effective date of this Amendment to the Agreement is APRIL 15, 2014.

All the other terms and conditions of the Agreement are unchanged and remain the same.

AMENDMENT NUMBER ONE TO
AGREEMENT BETWEEN THE COUNTY OF INYO AND
ECOSYSTEM SCIENCES
FOR THE PROVISION OF INDEPENDENT CONTRACTOR SERVICES

IN WITNESS THEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEALS THIS _____ DAY OF _____, _____.

COUNTY OF INYO

By: _____

Dated: _____

CONTRACTOR

By: Mark T Hill
Signature

Mark T. Hill
Type or Print

Dated: 3/25/14

APPROVED AS TO FORM AND LEGALITY:

Margaret Kemp-Williams
County Counsel

APPROVED AS TO ACCOUNTING FORM:

_____
County Auditor

APPROVED AS TO PERSONNEL REQUIREMENTS:

_____
Personnel Services

APPROVED AS TO RISK ASSESSMENT:

_____
County Risk Manager

C. MOU Consultants

TASK 1

Seasonal Habitat Flow

Seasonal habitat flows are prescribed to encourage a transition to riparian vegetation on the floodplains as well as manage channel sediments. The purpose of the habitat flow is to create a dynamic equilibrium for riparian habitat, fishery, water storage, water quality, animal migration, and biodiversity, which result in resilient productive ecological systems. Management actions are designed to achieve and maintain riparian habitats in a healthy ecological condition and establish a healthy warm water recreational fishery with habitat for native species. The LORP Monitoring and Adaptive Management Plan require the MOU consultants to recommend the annual seasonal habitat flow level to the Technical Committee based on the April runoff forecast. The river is then monitored during the flow period to evaluate adverse conditions or sudden problems. This task requires evaluation of the Owens Valley runoff conditions, review of proposed flow schedule and development of independent review and recommendations. During the Seasonal Habitat flow, the MOU consultant has to prepare for field observations, travel, and attend meetings with the Scientific Team to discuss the progress towards meeting the LORP objectives.

Deliverables:

Written recommendation for the Seasonal Habitat Flow based on the April runoff forecast. Written evaluation to be included in the LORP Annual Report discussing conditions encountered during the seasonal habitat flow and progress towards meeting LORP objectives and any necessary adaptive management actions.

Budget:

Monitoring of Seasonal Habitat Flow		FY 2013-2014		
		Hours	Rate	Cost
Labor Estimate:				
Principals		60	$139	$8,340
Associates		80	$93	$7,440
Administration		10	$69	$690
Subtotal				$16,470

TASK 2----------

Flooded Extent Evaluation

Monitoring of flooded extent, which is how much land area is inundated during seasonal habitat flows, is prescribed to inform managers about the effectiveness of seasonal habitat flows. Seasonal habitat flooding extent monitoring documents what habitats are being affected by the flooding. Determining the extent and duration of the flooded area enables managers to identify which vegetation communities are inundated and are being affected by the seasonal habitat flow. This assists in determining if the seasonal habitat flows are meeting the goals of the habitat and informs the adaptive management decision-making. The seasonal habitat flow is evaluated each year to estimate the extent of flooding on river landforms. The report for this work requires review and comment from the MOU consultant with assistance from the consultant's staff to verify mapping and estimates. Flood extent results are

compared to results from other tasks to analyze effectiveness in meeting LORP goals. Fieldwork for this task is completed during the Seasonal Habitat Flow monitoring.

Deliverables:

Written evaluation to be included in the LORP Annual Report discussing conditions encountered during the seasonal habitat flow flooded extent monitoring and progress towards meeting LORP objectives and any necessary adaptive management actions.

Budget:

Flood Extent Evaluation	FY 2013-2014		
	Hours	Rate	Cost
Labor Estimate:			
Principals	80	$139	$11,120
Associates	40	$93	$3,720
Administration	3	$69	$207
Subtotal			**$15,047**

TASK 3 ----------

Rapid Assessment Evaluation

Rapid Assessment Surveys (RAS) are conducted to document problems or potential management issues in LORP riverine-riparian area and provide qualitative project-level feedback regarding changes within the project area. Rapid Assessment Evaluation is performed on the river corridor, Blackrock Waterfowl Management Area, Off-River Lakes and Ponds and the Delta. LADWP and Inyo County staffs collect and processes field data, and perform data analysis, the results of which are captured in a draft RAS report. The LORP consultant reviews the RAS results to identify issues that require immediate action, and informs the MOU parties as required by the LORP Monitoring and Adaptive Management Plan. The MOU consultant will evaluate results for trends that influence monitoring and adaptive management recommendations for subsequent years.

Deliverables:

Written consultation with MOU Parties following completion of the RAS.

Written evaluation to be included in the LORP Annual Report discussing conditions encountered during the RAS, progress towards meeting LORP objectives and any necessary adaptive management actions.

Budget:

Rapid Assessment	FY 2013-2014		
	Hours	Rate	Cost
Labor Estimate:			
Principals	20	$139	$2,780
Associates	60	$93	$5,580
Administration	3	$69	$207
Subtotal			**$8,567**

TASK 4----------

Creel Census

The creel census helps track the development and health of the warm-water or game fishery as the LORP is implemented. Creel census data help to inform decision making for the fishery and water quality adaptive management areas. Adaptive management recommendations focus on establishing a healthy warm water fishery to meet MOU goals. ES will assist in the census and evaluating the results for the annual report. To assist with the Creel Census, ES will have to prepare for field observations, travel, and attend meetings with the Scientific Team to discuss the progress towards meeting the LORP objectives.

Deliverables:

Written evaluation to be included in the LORP Annual Report discussing Creel Census evaluation and progress towards meeting LORP objectives and any necessary adaptive management actions.

Budget:

Creel Census		FY 2013-2014		
		Hours	Rate	Cost
Labor Estimate:				
Principals		64	$139	$8,896
Associates		10	$93	$930
Administration		8	$69	$552
Subtotal				**$10,378**

TASK 5 ----------

Annual Report Evaluation

At the end of October, LADWP and ICWD forward the draft annual report to the MOU consultant. The MOU consultant will evaluate the annual report for completeness and accuracy. This requires reviewing each chapter and, in some cases, revaluating or re-estimating and verifying conclusions.

Deliverables:

Written evaluation to be included in the LORP Annual Report discussing the need for any contingency monitoring as well as discussion of progress towards meeting LORP objectives and any necessary adaptive management actions.

Budget:

Annual Report		FY 2013-2014		
		Hours	Rate	Cost
Labor Estimate:				
Principals		200	$139	$27,800
Associates		380	$93	$35,340
Administration		50	$69	$3,450
Subtotal				**$66,590**

TASK 6----------

Annual Adaptive Management Recommendations

Following review and evaluation of the draft annual report and consultation with LADWP and ICWD, a final chapter for adaptive management recommendations will be written for the final annual report and submission to the LORP Technical Committee. The MOU consultant will present the recommendations to the Technical Committee as required. This will require travel time and preparation time.

Deliverables:

Written evaluation of any necessary adaptive management actions as well as discussion of progress towards meeting LORP objectives.

Budget:

Adaptive Management Recommendations	FY 2012-2013		
	Hours	Rate	Cost
Labor Estimate:			
Principals	300	$139	$41,400
Associates	350	$93	$32,550
Administration	50	$69	$3,450
Subtotal			**$77,400**

TASK 7----------

Project Management and Meetings

The MOU consultant will meet with LADWP and ICWD periodically to review progress or discuss issues. The MOU consultant will manage project assignments, schedules and budgets, provide monthly progress reports to LADWP, budget assessment and invoice each month. This task will require the MOU consultant to prepare for meetings, travel, and attend meetings with the Scientific Team and MOU Parties to discuss the progress towards meeting the LORP objectives.

Budget:

Project Management and Meetings	FY 2013-2014		
	Hours	Rate	Cost
Labor Estimate:			
Principals	400	$139	$55,600
Associates	400	$93	$37,200
Administration	80	$69	$5,520
Subtotal			**$98,320**
	FY 2013-2014		
EXPENSES	Hours	Rate	Cost
Travel (Mileage 1500/trip @ $0.52-$0.56/mi)	10	$780	$7,800
Lodging	36	$125	$4,500
Per Diem	36	$75	$2,700
Subtotal			**$15,000**
FY 2013-2014 TOTAL			**$308,072**

ATTACHMENT B

AGREEMENT BETWEEN COUNTY OF INYO
AND ECOSYSTEM SCIENCES
FOR THE PROVISION OF BIOLOGICAL RESOURCES CONSULTING **SERVICES**

TERM:

FROM: JULY 1, 2013 **TO:** JUNE 30, 2014

SCHEDULE OF FEES:

County shall pay to Contractor for the work and services described in Attachment A which are performed by Contractor at County's request in an amount not to exceed $308,072.

ATTACHMENT C

AGREEMENT BETWEEN COUNTY OF INYO
AND ECOSYSTEM SCIENCES
FOR THE PROVISION OF BIOLOGICAL RESOURCES CONSULTING **SERVICES**

TERM:

FROM: JULY 1, 2013 **TO:** JUNE 30, 2014

SCHEDULE OF TRAVEL AND PER DIEM PAYMENT:

Travel expenses will be reimbursed at the following rates:

Mileage	@.56 per mile
Lodging	$125 per day
Per Diem	$75 per day

Section 3E - Billing and Payment - no receipts for lodging/per diem will be required due to flat rate.

For Clerk's Use Only:
AGENDA NUMBER
25

AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

Consent X Departmental ☐ Correspondence Action ☐ Public Hearing

☐ Scheduled Time for ☐ Closed Session ☐ Informational

FROM: **Water Department**

FOR THE BOARD MEETING OF: **April 15, 2014**

SUBJECT: **Inyo County/Los Angeles Standing Committee Meeting – April 22, 2014**

DEPARTMENTAL RECOMMENDATION:

A meeting of the Inyo County/Los Angeles Standing Committee is scheduled for April 22, 2014 in Los Angeles, California. Pursuant to Resolution 99-43 and the Long-Term Water Agreement, your Board sets policy for the County's representatives to the Standing Committee. The Water Department requests your Board consider the attached draft agenda and provide direction to the County's Standing Committee representatives.

SUMMARY DISCUSSION:

Staff has prepared the attached draft agenda. Five action items are anticipated:

Item #1: Approval of documentation of action items from the February 7, 2013 meeting. This item documents action items from the prior Standing Committee meeting.

Item #3: Request pursuant to Water Agreement Section XXVI.B for resolution of issues concerning vegetation parcel Blackrock 94. This item concerns the ongoing dispute over vegetation conditions in the Blackrock area. The Arbitration Panel in the dispute returned the dispute to the Technical Group and Standing Committee with the reminder to the Technical Group that "*every effort must be made to reach a resolution of the issues in dispute and that a report to the Standing Committee is a joint report from the Technical Group which is to set forth all areas of agreement and, absent total agreement, to set forth specific areas of disagreement so that the Standing Committee may attempt a resolution of the issues.*" Staff from LADWP and the Water Department have met to discuss areas of agreement and disagreement, and the Technical Group is scheduled to meet April 11 to develop its report to the Standing Committee.

The Water Agreement's provisions for the Standing Committee are (Section XXVI.B):

> Within fourteen (14) calendar days of the receipt of such a written report of disagreement from the Technical Group, the Standing Committee shall convene concerning the subject of the report. Additionally, within fourteen (14) days of receipt of a written request from either party, the Standing Committee shall convene for the purpose of hearing any matter which is to be determined by the Standing Committee, or a disagreement between the parties.

Absent resolution of the dispute by the Technical Group or Standing Committee, the Arbitration Panel will meet on May 15, 2014 to resolve the dispute.

Item #4b: Setting Lower Owens River Project seasonal habitat flow – Consideration of Technical Group recommendation. The peak flow and duration of the seasonal habitat flow is set out in the LORP Final EIR, and based on this year's anticipated runoff of 50% of normal, there will be no seasonal habitat flow. Staff anticipates having a memo prepared from the Technical Group to the Standing Committee for your consideration.

Item #4d: Establishment of Dry Year Blackrock Management Plan – Consideration of Technical Group recommendation regarding the Blackrock Waterfowl Management Area flooded acreage. Staff anticipates having a memo prepared from the Technical Group to the Standing Committee for your consideration. The size of the flooded acreage in the Blackrock Waterfowl Management Area is set according to the percent of normal runoff in years when runoff is less than normal, so in this anticipated 50% of normal runoff year, 50% of 500 acres, or 125 acres, will be flooded in the Drew unit of the Waterfowl Management Area.

Item #5: Consideration of modification of the Van Norman Field Enhancement/Mitigation Project. As follow-up to the February 7 Standing Committee meeting, on March 11 your Board considered alternatives for supplying water to the High School Farm. Your Board directed the County's Standing Committee representatives to make this motion at the Standing Committee meeting:

> The Board of Supervisors, acting through the Standing Committee, agrees to modify the Van Norman Field Enhancement/Mitigation (E/M) Project by adding approximately ten acres of the Lone Pine High School Farm to the Van Norman Field E/M Project. The total acreage of the modified Van Norman Field E/M Project will be approximately 170 acres. The approximately ten additional acres will be irrigated pasture. The total annual water supply for the project will remain at 480 acre-feet per year, which will result in an annual water distribution within the project boundary of approximately 2.8 acre-feet per acre.

LADWP filed a CEQA document consistent with this motion (attached).

ALTERNATIVES:

OTHER AGENCY INVOLVEMENT:

LADWP and California Department of Fish and Wildlife.

FINANCING:

N/A

APPROVALS	
COUNTY COUNSEL: **N/A**	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS *(Must be reviewed and approved by county counsel prior to submission to the board clerk.)* Approved: _____ Date: _____

AUDITOR/CONTROLLER: **N/A**	ACCOUNTING/FINANCE AND RELATED ITEMS (*Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)* Approved: _____ Date: _____
PERSONNEL DIRECTOR: **N/A**	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) Approved: _____ Date: _____

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) Robert Zimmer Date: 4/9/14

AGENDA

INYO COUNTY/LOS ANGELES STANDING COMMITTEE

1:00 p.m.
April 22, 2014

Board Room 1555-H, John Ferraro Building
111 North Hope Street
Los Angeles, California

The public will be offered the opportunity to comment on each agenda item prior to any action on the item by the Standing Committee or, in the absence of action, prior to the Committee moving to the next item on the agenda. The public will also be offered the opportunity to address the Committee on any matter within the Committee's jurisdiction prior to adjournment of the meeting.

1. **Action Item:** Approval of documentation of actions from the February 7, 2014 meeting.

2. Runoff and operations update.

3. **Action Item:** Request pursuant to Water Agreement Section XXVI.B for resolution of issues concerning vegetation parcel Blackrock 94.

    a. Presentation by Los Angeles (limited to twenty minutes)

    b. Presentation by Inyo County (limited to twenty minutes)

4. Lower Owens River Project

    a. Consultation with California Department of Fish and Wildlife regarding agenda item 4b

    b. **Action Item:** Setting Seasonal Habitat Flow - Consideration of Technical Group recommendation regarding setting the seasonal habitat flow.

    c. Consultation with California Department of Fish and Wildlife regarding agenda item 4d

    d. **Action Item:** Establishment of Dry Year Blackrock Management Plan - Consideration of Technical Group recommendation regarding the Blackrock Waterfowl Management Area flooded acreage

5. **Action Item:** Consideration of modification of the Van Norman Enhancement/Mitigation Project

6. Public Comment.

7. Confirm schedule for future Standing Committee meetings.

8. Adjourn.

DRAFT

Standing Committee meeting protocols (Adopted May 11, 2011)

The Inyo/Los Angeles Long-Term Water Agreement (LTWA) define the Standing Committee in Section II:

As agreed by the parties, the Department representatives on the Standing Committee shall include at least one (1) member of the Los Angeles City Council, the Administrative Officer of the City of Los Angeles, two (2) members of the Board of Water and Power Commissioners, and three (3) staff members. The County representatives on the Standing Committee shall be at least one (1) member of the Inyo County Board of Supervisors, two (2) Inyo County Water Commissioners, and three (3) staff members.

The LTWA further provides that:

Regardless of the number of representatives from either party in attendance at a Standing Committee or Technical Group meeting, Inyo County shall have only one (1) vote, and Los Angeles shall have only one (1) vote.

The Standing Committee adopts the following protocol for future Standing Committee meetings.

1. In order for the Standing Committee to take action at a meeting, representation at the meeting will consist of at least four representatives of Los Angeles, including one member of the Los Angeles City Council or Water and Power Commission, and four representatives of Inyo County, including one member of the Board of Supervisors.

2. A Chairperson from the hosting entity will be designated for each meeting.

3. In the event that an action item is on the meeting agenda, Los Angeles and Inyo County shall each designate one member to cast the single vote allotted to their entity at the onset of the meeting. The Chairperson may be so designated. Agenda items that the Standing Committee intends to take action on will be so designated on the meeting agenda.

4. If representation at a Standing Committee meeting is not sufficient for the Standing Committee to act, the Standing Committee members present may agree to convene the meeting for the purpose of hearing informational items.

5. Meeting agendas shall include any item within the jurisdiction of the Standing Committee that has been proposed by either party.

6. The public shall be given the opportunity to comment on any agenda item prior to an action being taken. The public will be given the opportunity to comment on any non-agendized issue within the jurisdiction of the Standing Committee prior to the conclusion of each scheduled meeting. At the discretion of the Chairperson, reports from staff or reopening of public comment may be permitted during deliberations.

7. The Chairperson may limit each public comment to a reasonable time period. The hosting entity will be responsible for monitoring time during public comment.

8. Any actions taken by the Standing Committee shall be described in an action item summary memorandum that is then transmitted to the Standing Committee at its next meeting for review and approval. This summary memorandum shall also indicate the Standing Committee members present at the meeting where actions were taken.

9. Standing Committee meetings shall be voice recorded by the host entity and a copy of the recording shall be provided to the guest entity.

10. (Added February 24, 2012) The Standing Committee may also receive comments/questions in written form from members of the public. Either party may choose to respond, however, when responding to a public comment/question, whether verbally or in writing, any statements made by either party may represent the perspective of that party or the individual making the response, but not the Standing Committee as a whole (unless specifically agreed to as such by the Standing Committee). When either party responds in writing to public comment/question, that response will be concurrently provided to the other party.

DRAFT

COUNTY CLERK'S USE

CITY OF LOS ANGELES
OFFICE OF THE CITY CLERK
ROOM 395, CITY HALL
LOS ANGELES, CALIFORNIA 90012
CALIFORNIA ENVIRONMENTAL QUALITY ACT

CITY CLERK'S USE
FILED
MAR 1 2014
KAMMI FOOTE, CLERK
BY DEPUTY

NOTICE OF EXEMPTION

(City CEQA Guidelines)

Submission of this form is optional. The form shall be filed with the County Clerk, 168 North Edwards Street, Independence, CA 93526, pursuant to Public Resources Code Section 21152(b). Pursuant to Public Resources Code Section 21168(d), the filing of this notice starts a 35-day statute of limitations on Court challenges to the approval of the project. Failure to file the notice results in the statute of limitations being extended to 180 days.

LEAD CITY AGENCY AND ADDRESS:	COUNCIL DISTRICT
Los Angeles Department of Water and Power (LADWP) 111 N. Hope Street, Room 1044 Los Angeles, CA 90012	N/A
PROJECT TITLE	**LOG REFERENCE**
Van Norman Field Enhancement/Mitigation Project	N/A

PROJECT LOCATION The Van Norman Field Enhancement/Mitigation project is located northeast of Lone Pine near the intersection of US Highway 395 and Lone Pine Narrow Gauge Road (Attachment 1).

DESCRIPTION OF NATURE, PURPOSE, AND BENEFICIARIES OF PROJECT:
LADWP proposes to modify the Van Norman Field Enhancement/Mitigation (E/M) Project by adding approximately ten acres of the Lone Pine High School Farm to the Van Norman Field E/M Project. The total acreage of the modified Van Norman Field E/M Project will be approximately 170 acres. The ten additional acres (approximate) will be irrigated pasture. The total annual water supply for the project will remain at 480 acre-feet per year, which will result in an annual water distribution within the project boundary of approximately 2.8 acre-feet per acre.

CONTACT PERSON	AREA CODE	TELEPHONE NUMBER	EXT.
Laura Hunter	213	367-0496	

EXEMPT STATUS:

	CITY CEQA GUIDELINES	STATE EIR GUIDELINES
____ MINISTERIAL	Art. II, Sec. 2b	Sec. 15073
____ DECLARED EMERGENCY	Art. II, Sec. 2a(1)	Sec. 15071(a)
____ EMERGENCY PROJECT	Art. II, Sec. 2a(2) & (3)	Sec. 15071(b) & (c)
____ GENERAL EXEMPTION	Art. II, Sec. 1	Sec. 15060
X CATEGORICAL EXEMPTION	Art. III, Sec. 1	Sec. 15300

____ OTHER (See Public Resources Code Sec. 21080(b) and set forth state and city guidelines provision)

JUSTIFICATION FOR PROJECT EXEMPTION:
The proposed project is categorically exempt from environmental review pursuant to Section 15304 [Minor Alterations to Land] of the Guidelines for Implementation of the California Environmental Quality Act (CEQA). Section 15304(e)(f) exempts minor alterations in the condition of land, water and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry and agricultural purposes. Pursuant to State Guidelines Section 15304 (Class 4), the project is categorically exempt from CEQA because the conversion of 10 acres of the Van Norman Field E/M site to irrigated pasture would consist of minor alterations to the condition of land, water, and vegetation and would not involve the removal of healthy, mature, scenic trees.

IF FILED BY APPLICANT, ATTACH CERTIFIED DOCUMENT OF EXEMPTION FINDING

SIGNATURE		TITLE:	DATE
Charles C. Holloway Charles C. Holloway		Manager of Environmental Planning and Assessment	3/11/14
FEE: $	RECEIPT NO.	REC'D BY	DATE

DISTRIBUTION: (1) County Clerk (2) City Clerk (3) Agency Record
Form Gen. 153 (9/91) (Appendix A)

14-00006

For Clerk's Use Only:
AGENDA NUMBER

26

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

☐ Consent ☒ Departmental ☐ Correspondence Action ☐ Public Hearing

☐ Scheduled Time for ☐ Closed Session ☐ Informational

FROM: Nathan Reade, Agricultural Commissioner/Director of Weights and Measures

FOR THE BOARD MEETING OF: **April 15, 2014**

SUBJECT: Financing for Agriculture Building

DEPARTMENTAL RECOMMENDATION:

Adopt the resolution entitled "A RESOLUTION OF THE INYO COUNTY BOARD OF SUPERVISORS AUTHORIZING AND APPROVING AN INYO COUNTY TREASURY BRIDGE LOAN TO THE INYO MONO COUNTY AGRICULTURAL COMMISSIONER'S OFFICE".

CAO RECOMMENDATION:

SUMMARY DISCUSSION:

The cost of constructing a new maintenance facility by the Agricultural Commissioner's Office may exceed resources contained in the Building Trusts created to fund this project. It is estimated by staff that construction costs may reach up to $100,000 more than is currently held in both Inyo's and Mono's trusts. The combined trust amount is $533,545.50. It is proposed that the Agricultural Commissioner's Office obtain a bridge loan from the Treasury to cover the excess costs.

The proposed bridge loan will be issued as a $50,000 initial disbursement, followed by another $50,000 disbursement if needed. Any funds borrowed will be repaid by May 1, 2016.

ALTERNATIVES:

Not adopt the resolution granting a bridge loan to the Agricultural Commissioner's Office, but this will delay the construction of this project.

OTHER AGENCY INVOLVEMENT:

FINANCING:

The Agricultural Commissioner Budget #023300 is a general fund budget. If approved, this action would result in $100,000 being available to cover the shortfall for the building project. Funds will be posted to the Agricultural Commissioner Budget in revenue code # 4990 (Loan Proceeds). This loan will be issued as an initial disbursement of $50,000, followed by a second disbursement if needed. The loan will be paid off as described in the attached documentation, the first payment due May 1, 2015, the second and final payment due May 1, 2016. Any excess funds borrowed and not spent for the construction of this project will be used to repay debt on this loan. In the event that the Agricultural Commissioner Budget cannot meet these payment terms, there may be impacts to the general fund to cover shortfalls in repayment.

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS *(Must be reviewed and approved by county counsel prior to submission to the board clerk.)* Margaret Kemp-Williams Approved: Yes Date 04/08/14
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (*Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)* Amy Shepherd Approved: yes Date 4/8/14
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) Approved:_____ Date_____

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received)_____ Date: 4-8-14

RESOLUTION NUMBER_____
A RESOLUTION OF THE INYO COUNTY BOARD OF SUPERVISORS
AUTHORIZING AND APPROVING AN
INYO COUNTY TREASURY BRIDGE LOAN TO
THE INYO MONO COUNTY AGRICULTURAL COMMISSIONER'S OFFICE

WHEREAS, Government Code section 53601(e) and the Inyo County Investment Policy authorize the Treasurer-Tax Collector to purchase bonds, noted, warrants or other evidences of debt of any agency formed within Inyo County; and

WHEREAS, it has been determined by the Treasurer-Tax Collector that there are funds available in this investment category to provide short term, low interest bridge loans for local agencies (Bridge Loans);

WHEREAS, the INYO COUNTY BOARD OF SUPERVISORS and MONO COUNTY BOARD OF SUPERVISORS previously approved the creation of Agricultural Commission Building Trusts [Trusts] for the purpose of establishing a fund to construct a building for use by the INYO MONO COUNTY AGRICULTURAL COMMISSIONER'S OFFICE; and

WHEREAS, the Trusts have grown over the course of several years to a current combined fund balance of Five Hundred Thirty Thousand Dollars ($533,545.50); and

WHEREAS, the projected final cost of the building is roughly One Hundred Thousand Dollars ($100,000) more than is currently held in the Trusts; and

WHEREAS, the Inyo County Agricultural Commission submitted an application to the Treasurer-Tax Collector's Office for a two (2) year One Hundred Thousand Dollars ($100,000) Bridge Loan (Application) from the Inyo County Treasury Pool's Local Debt Purchase Program to be used with the funds held in the Trusts for the construction of the Agricultural Commission Building (Project); and

WHEREAS, the Inyo County Treasury Oversight Committee reviewed the Application, determined the INYO MONO COUNTY AGRICULTURAL COMMISSIONER'S OFFICE is a qualified local agency eligible for a Bridge Loan and submitted the Application to the Treasurer-Tax Collector for review with its recommendation for approval; and

WHEREAS, the Treasurer-Tax Collector has determined there are funds available to make a Bridge Loan to the INYO MONO COUNTY AGRICULTURAL COMMISSIONER'S OFFICE pursuant to its Application; and

WHEREAS, the Treasurer-Tax Collector approved the Application subject to approval of the Board of Supervisors.

NOW THEREFORE BE IT RESOLVED

A. The Inyo County Board of Supervisors approves and authorizes the INYO MONO COUNTY AGRICULTURAL COMMISSIONER'S OFFICE to accept a loan in the amount of $100,000 with interest accruing at the now current rate paid by LAIF plus one percent, 1.24% for a term of two (2) years from the Inyo County Treasury Pool's Local Debt Purchase Program (Loan) to provide bridge funding for the Project; and

B. The amount of the Loan will be paid in full, plus interest, under the terms and conditions of the Loan Agreement and Promissory Note collectively attached hereto as Exhibits "A;" and

C. The Inyo County Agricultural Commissioner is authorized to sign for the INYO MONO COUNTY AGRICULTURAL COMMISSIONER'S OFFICE all documents needed to implement and carry out the purpose of this Resolution and to undertake all actions needed to undertake and complete the Project for which the Loan is intended.

PASSED AND ADOPTED THIS 15TH DAY OF APRIL 2014 by the following vote:

AYES
NOES
ABSTENTION

_____
Richard Pucci, Chair
INYO COUNTY BOARD OF SUPERVISORS

ATTEST:
KEVIN CARUNCHIO
CLERK OF THE BOARD

by_____
Patricia Gunsolley

INYO COUNTY TREASURY LOAN AGREEMENT

This Loan Agreement (the "Agreement") by and between the INYO COUNTY TREASURY (the "Treasury") and the County of Inyo on behalf of INYO MONO COUNTY AGRICULTURAL COMMISSIONER'S OFFICE (the "Borrower"), all California public entities, is entered into as of the date set forth below. The Inyo County Treasurer (the "Treasurer") is the authorized representative for the Treasury.

1. STATUTORY AUTHORITY AND LOAN

a. Following review and recommendation by the Inyo County Treasury Oversight Committee as allowed in California Government Code Section 53601(e) and the County of Inyo Statement of Investment Policy, the Treasurer approves the Borrower's loan application dated March 20, 2014, which is not attached but is expressly incorporated by reference herein.

b. Subject to the terms, covenants, and conditions contained herein, the Treasury shall make a loan to the Borrower (the "Loan") in the amount of one hundred thousand dollars ($100,000.00) evidenced by a Promissory Note (the "Promissory Note"), for loan number 2014-001 for the construction of a building to be used by the Borrower ("Project"). A copy of the Promissory Notes is attached hereto as Exhibit "A" and incorporated herein by this reference as though set forth fully.

2. PURPOSE

The Borrower agrees to expend all funds disbursed pursuant to this Agreement only for the purpose of completing the Project.

3. LOAN DISBURSEMENT

The Treasury agrees to disburse funds to the Borrower upon receipt of a Resolution authorizing and approving the Loan from the County of Inyo Board of Supervisors and the Borrower's execution of the Promissory Note.

4. LOAN REPAYMENT AND INTEREST

All funds disbursed hereunder, together with all interest payable thereon, shall be repaid to the Treasury in accordance with the terms of the Promissory Note. The loan shall bear simple interest at the annual rate set forth in the attached Promissory Note

on the principal balance of Loan funds disbursed to the Borrower. Payment of said interest shall be due at the time of the annual scheduled Loan repayment installments to the Treasury, Exhibit A to the Promissory Note, and interest shall accrue from the time of disbursal of funds to the Borrower until receipt of full Loan repayment to the Treasury.

5. TERM

This Agreement shall commence on the date it has been executed by both parties, with the date being inserted by the final party to sign, and shall continue for two (2) years subject to the Treasury's right to terminate as discussed herein below in Paragraph 11.

6. PREPAYMENT

The Borrower shall have the right to prepay all or any part of this Loan at any time without penalty.

7. PROMISSORY NOTE

In order to evidence its debt to the Treasury hereunder, the Borrower agrees to, contemporaneously with the execution of this Agreement, execute and deliver to the Treasury the Promissory Note.

8. ACCOUNTS, AUDITS, AND RECORDS

a. Borrower shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services, or expenditures and disbursements charged against the Loan for a minimum period of three (3) years, or for any longer period required by law, from the date the loan obligation is satisfied.
b. Borrower shall maintain all documents and records which demonstrate performance under this Agreement for a minimum period of three (3) years, or for any longer period required by law, from the date of termination or completion of this Agreement.
c. Any records or documents required to be maintained pursuant to this Agreement shall be made available for inspection or audit at any time during regular business hours, upon written request by the Treasurer or other designated representative of the Treasury. Copies of such documents shall be provided to the Treasurer for inspection at the Treasurer's office unless it is impractical to do so; in which case the records shall be made available at Borrower's address indicated for receipt of notices in this Agreement.

d. If requested by the Treasury the Borrower shall submit to an independent audit, at its expense.

9. SOURCE OF REPAYMENT

a. Annual payments due to the Treasury under this Agreement shall be made from such legally available funds as the Borrower chooses.

b. The Borrower agrees to take all action necessary to include all payments due hereunder in its annual budget and to make the necessary annual appropriations for all such payments.

10. DEFAULT

a. In the event of any default or breach of this Agreement by the Borrower, the Treasury, without limiting any of its other legal rights or remedies, may, to the extent permitted by law, declare the Promissory Note evidencing this Loan to be immediately due and payable.

b. Each of the following occurrences shall constitute an event of default:

1. The Borrower's failure to comply with any of the terms of this Agreement;
2. Failure of the Borrower to repay any principal or interest when due under the terms of this Promissory Note;
3. Failure of the Borrower to undertake in a timely manner the express and implied activities for which this Loan Agreement has been executed;
4. The occurrence of any of the following:
   - (i) The Borrower becoming insolvent or bankrupt or being unable or admitting in writing its inability to pay its debts as they mature or making a general assignment for benefit of or entering into any composition or arrangement with creditors;
   - (ii) proceedings for the appointment of a receiver, trustee, or liquidator of the assets of the Borrower or a substantial part thereof, being authorized by or against the Borrower; or
   - (iii) proceedings under any bankruptcy, reorganization, readjustment of debt, insolvency, dissolution, liquidation or other similar law, or any jurisdiction being authorized against the Borrower.

(iv) Reorganization of the local agency that reduces the tax base from which payments are due as determined in the discretion of the Treasurer.

11. TERMINATION

In the event of default or any breach by the Borrower of the conditions set forth in this Agreement, the Treasury may, without prejudice to any of its legal remedies, terminate this Agreement for cause upon five (5) days written notice to the Borrower.

12. GENERAL TERMS

a. Independent Capacity. The Borrower, and the agents and employees of the Borrower, in the performance of this Agreement, shall act in an independent capacity and not as agents of the Treasury.

b. Assignment. This Agreement is not assignable or transferable by the Borrower either in whole or in part.

c. Time is of the Essence. Time is of the essence in this Agreement. Borrower is required to take timely actions which, taken collectively, move to the completion of the purpose for which this Loan was awarded. If the Treasurer determines that the Borrower is not progressing toward completion within one (1) year after the effective date of this Agreement, The Treasurer may, without penalty or prejudice to any of the Treasury's other remedies, terminate this Agreement.

d. Entire Agreement: This Agreement constitutes the complete and exclusive statement of Agreement between the Treasury and Borrower. All prior written and oral communications, including correspondence, drafts, memoranda, and representations, are superseded in total by this Agreement.

e. Amendment. No amendment or variation of the terms of this Agreement shall be valid unless made in writing and signed by the parties hereto, and no oral understanding or agreement not incorporated herein shall be binding on any of the parties hereto.

f. Severability. In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be effected thereby.

g. Governing Law and Venue. This Agreement is governed by and shall be interpreted in accordance with the laws of the State of California. Venue shall be in Inyo County.

h. Borrower Authorization. The Borrower certifies that it has full power and authority to enter into this Agreement, and this Agreement has been duly authorized, executed and delivered by the Borrower. The Borrower acknowledges that the resolution of its governing body or other official action authorizing it to enter into this Agreement also authorizes such further acts as are necessary, including execution of the Promissory Note, to implement and further the intent of this Agreement.

i. **Waiver**: No failure on the part of either party to exercise any right or remedy hereunder shall operate as a waiver of any other right or remedy that party may have hereunder.

13. NOTICE

a. Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other party shall be in writing and either served personally or sent prepaid, first class mail U.S. mail, overnight mail, or personal delivery, providing evidence of receipt.

b. Any such notice, demand, etc., shall be addressed/delivered to the other party at the address, set forth herein below. Either party may change its address by notifying the other party of the change of address. Notice shall be deemed communicated within 48 hours from the time of mailing if mailed as provided in this section or on receipt.

If to the TREASURY : Inyo County Treasurer-Tax Collector
Attn: Debt Purchase Program
P.O. Drawer O
Independence, CA 93526

If to Borrower: INYO MONO COUNTY AGRICULTURAL COMMISSIONER'S OFFICE
Attn: Agricultural Commissioner
207 W. South Street
Bishop, CA 93514

c. Delivery by fax or e-mail is not considered notice for the purposes of this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on _____, 20__.

TREASURY

_____

Alisha McMurtrie
TREASURER

BORROWER

_____

INYO MONO AGRICULTURAL
COMMISSIONER'S OFFICE
Nathan Reade
Agricultural Commissioner

APPROVED AS TO FORM:

_____
County Counsel

ATTEST: KEVIN CARUNCHIO
Board Clerk

By_____,
Patricia Gunsolley

EXHIBIT "A"

PROMISSORY NOTE

LOAN NUMBER: _____

PRINCIPAL AMOUNT: $100,000.00

INTEREST RATE: 1.24%

1. For value received, the undersigned, (herein after referred to as the "Borrower"), promises to pay to the order of the Inyo County Treasury (herein after referred to as the "Treasury"), at its principal place of business at 168 N. Edwards Street, Independence CA 93526-0614, or at such other places as the Treasury may designate the principal sum of One Hundred Thousand Dollars and 00/100 ($100,000.00) or such lesser amount as shall equal the aggregate amount disbursed to the Borrower by the Treasury pursuant to the Inyo County Treasury Loan Agreement (the "Loan Agreement") between the Borrower and the Treasury, together with interest thereon at the rate of 1.24 percent per annum on the unpaid principal. Principal, together with interest thereon, is due and payable in annual installments as specified in the Estimated Amortizations Schedule, attached hereto as Exhibit "1," beginning on May 1, 2015 and continuing thereafter on each May 1st until said principal and interest shall be paid in full.
2. Payments received will be first applied to billed interest, if any, and the balance, if any, to principal. If all principal is repaid, the balance is applied to accrued interest.
3. Payments of any scheduled installment received within thirty (30) days of the due date shall be considered to have been received on the due date. Interest on the principal portion of the payment shall accrue through the due date.
4. Payment of any scheduled installment received more than thirty (30) days after the due date shall be considered late. Interest on the principal portion of the payment shall accrue through the actual date payment is received.
5. If any installment is not paid within thirty (30) days after its due date, The Treasury, at its option, may require the Borrower to pay a late charge equal to one percent (1%) of the amount of the installment.
6. The Borrower may prepay this Promissory Note in full or in part, without penalty.
7. The Borrower agrees to take such action as may be necessary to include all payments due herein in its annual budget and to make the necessary annual appropriations for all such payments.

8. On the occurrence of any event of default, the Treasury, at its sole election and without limiting any of its other legal rights or remedies, may, to the extent permitted by law, declare all or any portion of the principal and accrued interest on this Promissory Note to be immediately due and payable and may proceed at once without further notice to enforce this Promissory Note according to law.

9. Each of the following occurrences shall constitute an event of default:
   A. Failure of the Borrower to comply with any of the terms of the Agreement.
   B. Failure of the Borrower to repay any principal or interest when due under the terms of this Promissory Note;
   C. Termination of the Loan Agreement pursuant to the terms thereof or breach by the Borrower of any terms of said Loan Agreement;
   D. Failure of the Borrower to undertake in a timely manner the express and implied activities for which said Loan Agreement has been executed;
   E. The occurrence of any of the following:

   1. (1)the Borrower becoming insolvent or bankrupt or being unable or admitting in writing its inability to pay its debts as they mature or making a general assignment for benefit of or entering into any composition or arrangement with creditors;

   2. proceedings for the appointment of a receiver, trustee, or liquidator of the assets of the Borrower or a substantial part thereof, being authorized by or against the Borrower; or

   3. proceedings under any bankruptcy, reorganization, readjustment of debt, insolvency, dissolution, liquidation or other similar law, or any jurisdiction being authorized against the Borrower.

   4. Reorganization of the Borrower in a manner that the Treasurer in the exercise of discretion concludes reduces the tax base from which payment is to be made.

10. No delay or failure of the Treasury in the exercise of any right or remedy hereunder or under any other agreement which secures or is related hereto shall affect any such right or remedy, and no single or partial exercise of any such right or remedy shall preclude any further exercise thereof, and no action taken or omitted by the Treasury shall be deemed a waiver of any such right or remedy.

11. Any notice to the Borrower provided for in this Promissory Note shall be given by mailing such notice by certified mail, return receipt requested, addressed to the Borrower at the address stated in the Loan Agreement, or to such other address as the

Borrower may designate by notice to the Treasury. Any notice to the Treasury shall be given by mailing certified mail, return receipt requested, to the Treasury at the address stated in the Loan Agreement, or at such other address as may have been designated by notice to the Borrower.

12. If suit is brought to collect any part of this Promissory Note, the Treasury shall be entitled to collect all reasonable costs and expenses of said suit and any appeal there from, including reasonable attorney's fees.

13. This Promissory Note shall be binding upon the Borrower and its permitted successors and assigns and upon the Treasury and its permitted successor and assigns. This Promissory Note is not assignable nor transferrable by the Borrower.

14. This Promissory Note shall be construed and enforced in accordance with the laws of the State of California, with venue in the County of Inyo.

_____

INYO MONO AGRICULTURAL COMMISSIONER'S OFFICE

_____

NATHAN READE
AGRICULTURAL COMMISSIONER

_____

DATE

COUNTY OF INYO
TREASURER-TAX COLLECTOR
168 NORTH EDWARDS STREET
POST OFFICE DRAWER O
INDEPENDENCE, CA 93526-0614
(760) 878-0312 • (760) 878-0311 FAX
Inyottc@inyocounty.us

ALISHA McMURTRIE
TREASURER-TAX COLLECTOR

EXHIBIT "1"
ESTIMATED LOAN AMORTIZATION SCHEDULE

Loan Number: 2014-01
Recipient: Inyo County-Ag
Loan Amount: $100,000.00
Interest Rate: 1.24% (3/19/14)

Number of Payments: 2
Estimated Disbursement Date: May 1, 2014
Maturity Date: April 30, 2016

Date	Pmt #	Payment	Principal	Interest	Balance
5/1/2014	Starting Balance				$100,000.00
5/1/2015	1	$50,931.91	$49,691.91	$1,240.00	$50,308.09
5/1/2016	2	$50,931.91	$50,308.09	$623.82	$0.00
Total	2 Pmts	$101,863.82	$100,000.00	$1,863.82	

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

☐ Consent ☒ Departmental ☐ Correspondence Action ☐ Public Hearing
☐ Schedule time for ☐ Closed Session ☐ Informational

For Clerk's Use Only:
AGENDA NUMBER
27

FROM: Public Works Department / Agriculture Commission

FOR THE BOARD MEETING OF: April 15, 2014

SUBJECT: Award of Construction Contract for the Inyo and Mono Counties Agriculture Department (Ag Dept.) Storage Building Project and Budget Amendment

DEPARTMENTAL RECOMMENDATIONS:

1. Request the Board adopt the California Environmental Quality Act (CEQA) Negative Declaration for the project;
2. Award the Construction Contract for the Ag Dept. Storage Building Project to Rudolph Construction, Inc., of Bishop, CA in an amount of $567,621.00,
3. Authorize the Board Chairperson to sign the contract, contingent upon the appropriate signatures being obtained; and,
4. Authorize the Public Works Director to sign all other contract documents, including change orders, to the extent permitted pursuant to Section 20142 of the Public Contract Code and other applicable law; and
5. Request Board amend the FY 2013-14 Agriculture Commissioner (Budget 023300) as follows: increase estimated revenue in Other Agency (Revenue Code No. 4599) by $248,597, increase estimated revenue in Operating Transfer In (Revenue Code No. 4998) by $284,948, increase estimated revenue in Loan Proceeds (Revenue Code No. 4990) by $100,000 and increase appropriation in Structures and Improvements (Object Code 5640) by $633,545. (4/5 vote required).

CAO RECOMMENDATIONS:

SUMMARY DISCUSSION:

On December 17, 2013, your Board approved plans and specifications for the revised Ag Dept. Storage Building Project and authorized the Public Works Department to advertise and receive bids for the project. These revised plans and specifications arose after the previous Ag Dept. Storage Building project bids, received on July 5, 2013, greatly exceeded both the engineer's estimate and the project budget.

On February 14, 2014, four (4) bids were received and opened by the Assistant Board Clerk. These bids have been reviewed by County Counsel and deemed responsive to the bid documents. A bid tabulation sheet is attached for your review.

Rudolph Construction, Inc., provided the lowest base bid of $567,621.00, which was 9.9% below the Engineer's estimate of $630,000. Per CA Public Contract Code Section 10126(c)(1), the lowest responsive base bid amount shall be used to determine the low bidder. Therefore, the Public Works Department is recommending that the Board award the bid to Rudolph Construction, Inc., in a total base bid contract amount of $567,621.00. Funding for the project will come primarily from the Inyo County Ag Commissioner Building Trust and Mono County Ag Building Trust accounts with a current balance of $533,545. The shortfall balance (estimated at $100,000 with contingencies included) will come from a short-term Treasury Loan.

Inyo's contracting preferences for Small Business Enterprises (a portion of County Ordinance No. 1156) applies to the project. Of the four bids received, two submitted certification information as Small Business Enterprises.

Rudolph Construction, Inc. was one of the two certified Small Business Enterprises and also had the lowest responsive bid.

ALTERNATIVES:

Your Board could choose to not award the contract to Rudolph Construction, Inc., and again re-bid the project. This is not recommended, as the low bid price received for the project is very competitive after review by the Public Works Department.

OTHER AGENCY INVOLVEMENT:

County Counsel's Office for review of the bid documents and approval of the contract.
The Auditor's Office for approval of the contract and payments to the contractor.
The Public Works Department for contract administration.

FINANCING:

This project currently has dedicated funds of $533,545 available from both the Inyo and Mono Ag Building Trust accounts. The Inyo Ag Commissioner Building Trust has a balance of $284,948 and the Mono County Building Trust has a balance of $248,597. Mono County currently has budget in place to cover the transfer of funds for the construction cost upon presentation of invoices.

The Ag Commissioner has requested your Board approve a short-term Treasury Loan in the amount of $100,000 to cover both the project's budget shortfall and construction contingencies, which will be repaid in two years.

APPROVALS	
COUNTY COUNSEL: Margaret Kemp-Williams	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (Must be reviewed and approved by County Counsel prior to submission to the board clerk.) Approved: yes Date 04/09/14
AUDITOR/CONTROLLER Amy Shepherd	ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the auditor/controller prior to submission to the board clerk.) Approved: yes Date 4/9/14
PERSONNEL DIRECTOR N/A	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) Approved: Date

BUDGET OFFICER _____ **Approved:** _____ **Date** 04-09-2014

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) _____ Date: 4-9-14

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) _____ Date: 4/9/14

CONTRACT
for
AGRICULTURE DEPT. STORAGE BUILDING PROJECT
AT
BISHOP, CA

THIS CONTRACT is awarded by the COUNTY to CONTRACTOR on, and made and entered into effective _____, 2014, by and between the COUNTY OF INYO, a political subdivision of the State of California, (herein "Owner"), and Rudolph Construction, Inc. (herein "CONTRACTOR"), for the construction of the **AGRICULTURE DEPT. STORAGE BUILDING PROJECT** (herein also "Project"), which parties agree, for and in consideration of the mutual promises, as follows:

1. CONTRACTOR shall furnish all labor, materials, methods, processes, implements, tools, machinery, equipment, transportation, permits, services, utilities, and all other items, and related functions and otherwise shall perform all work necessary or appurtenant to construct the Project in accordance with the Contract Documents within the Time for Completion set forth in the Contract Documents, for:

Title: **AGRICULTURE DEPT. STORAGE BUILDING PROJECT**

2. For the performance of all such work, COUNTY shall pay to CONTRACTOR the total amount bid by CONTRACTOR for said Work: _____ Five Hundred Sixty Seven Thousand Six Hundred Twenty One and 00/100 _____ dollars ($567,621.00), adjusted by such increases or decreases as authorized in accordance with the Contract Documents, and payable at such times and upon such conditions as otherwise set forth in the Contract Documents.

3. CONTRACTOR and COUNTY agree that this Contract shall include and consist of (a) all of the provisions set forth expressly herein; (b) the Bid Proposal Form, the Faithful Performance Bond, and the Labor and Materials Payment Bond, all of which are incorporated herein and made a part hereof by this reference; and (c) all of the other Contract Documents, as described in **Section 1070.04, "Definitions,"** of the Standard Specifications of the Inyo County Public Works Department, dated March, 1997, all of which are incorporated herein and made a part of this Contract by this reference, including without limitation, the Bid Package, the Standard Specifications of the Inyo County Public Works Department, dated March, 1997, and the Special Provisions concerning this Project including the Appendices, the Plans, any and all amendments or changes to any of the above-listed documents, including, without limitation, contract change orders, and any and all documents incorporated by reference into any of the above-listed documents.

4. The definition and meaning of the words used in this Contract are the same as set forth in Section **1070, "Abbreviations, Symbols and Definitions,"** of the Standard Specifications of the Inyo County Public Works Department, dated March, 1997.

5. This Contract, including the Contract Documents and all other documents, which are incorporated herein by reference, constitutes the entire agreement between CONTRACTOR and COUNTY with respect to the subject matter hereof.

6. Pursuant to **Section 1773 of the Labor Code**, the general prevailing wage rates in Inyo County have been determined by the Director of the State Department of Industrial Relations. These wage rates appear in the Department of Transportation publication entitled "General Prevailing Wage Rates", in effect at the time the project is advertised. Future effective wage rates, which have been predetermined and are on file with the State Department of Industrial Relations are referenced, but not printed, in said publication. Such rates of wages are on file with the State Department of Industrial Relations and the offices of the Public Works Department of the County of Inyo and are available to any interested party upon request.

C O N T R A C T
for the
AGRICULTURE DEPT. STORAGE BUILDING PROJECT

IN WITNESS WHEREOF, COUNTY and CONTRACTOR have each caused this Contract to be executed on its behalf by its duly authorized representative, effective as of the day and year first above written.

COUNTY

COUNTY OF INYO

By: _____

Name: _____

Title: _____

Dated: _____

CONTRACTOR

_____

By: _____

Name: _____

Title: _____

Dated: _____

APPROVED AS TO FORM AND LEGALITY:

Margaret Kemp-Williams
County Counsel

Taxpayer's Identification or Social Security Number:

_____

APPROVED AS TO ACCOUNTING FORM:

Amy Shepherd
County Auditor

APPROVED AS TO INSURANCE REQUIREMENTS:

_____
County Risk Manager

APPROVED AS TO PERSONNEL REQUIREMENTS:

_____
Director of Personnel Services

RESOLUTION NO. R13-75
BOARD OF SUPERVISORS, COUNTY OF MONO

A RESOLUTION OF THE MONO COUNTY BOARD OF SUPERVISORS AUTHORIZING THE AGRICULTURAL COMMISSIONER TO TRANSFER FUNDING FROM THE MONO COUNTY BUILDING TRUST TO A CONSTRUCTION FUND FOR THE PURPOSES OF CONSTRUCTING A DEPARTMENT MAINTENANCE FACILITY

WHEREAS, the Inyo-Mono Counties Agricultural Commissioner's Office established a building trust in both Inyo and Mono Counties in 2010 for the purpose of constructing a maintenance facility; and

WHEREAS, these funds may only be expended for Agricultural Commissioner programs pursuant to California Food and Agriculture Code section 224(g); and

WHEREAS, construction of said maintenance facility will require movement of Mono County building trust funds held in the Capital Improvements fund to a construction fund in Inyo County when resources are adequate for this construction to occur;

NOW, THEREFORE, LET IT BE RESOLVED BY THE MONO COUNTY BOARD OF SUPERVISORS as follows:

The County Agricultural Commissioner upon presentation and approval of invoices to the Finance Director is authorized to transfer funds from the Mono County Agricultural Commissioner Building Capital Improvement Fund to an Inyo County Construction Fund, for the purposes of constructing a departmental facility to serve the maintenance needs of the Agricultural Commissioner's Office as it conducts duties in both Inyo and Mono Counties.

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APPROVED AND ADOPTED this 17th day of September, 2013, by the following vote of the Board of Supervisors, County of Mono:

AYES : Supervisors Fesko, Hunt, Johnston and Stump.

NOES : None.

ABSENT : Supervisor Alpers.

ABSTAIN : None.

BYNG HUNT, CHAIRMAN
BOARD OF SUPERVISORS
COUNTY OF MONO

ATTEST:

LYNDA ROBERTS
CLERK OF THE BOARD

APPROVED AS TO FORM:

MARSHALL RUDOLPH
COUNTY COUNSEL

COUNTY OF INYO BID TABULATION

Project Title & Bid No. Agricultural Dept Storage Building

Bid Opening Date: 2-14-14 *Location:* County Admin Center

	BIDDER NAME	Bid Amount A	Bid Amount B	Bid Amount C	Bond
1.	High Desert Const.	$629,760			✓
2.	Rudolph Const. Inc	$567,621			✓
3.	Speiss Const.	$668,700			✓
4.	Re Com Div.	$580,198			✓
5.					
6.					
7.					
8.					
9.					
10.					

Opened By: Patricia Gunsalley

Present: Jeff Ahlstron
Nate Reade

DRAFT NEGATIVE DECLARATION OF ENVIRONMENTAL IMPACT AND INITIAL STUDY

PROJECT TITLE: Inyo/Mono Counties Agricultural Commissioner Maintenance Facility

PROJECT LOCATION: 218 Wye Road, Bishop, CA

PROJECT DESCRIPTION: This project includes the construction and operation of a new maintenance facility, which the County operates on land leased from the City of Los Angeles Department of Water and Power. This project will replace the department's current inadequate maintenance facilities. Facilities include a pre-fabricated metal building and parking area for department vehicles and equipment. The proposed building size is approximately 6,300 square feet, and parking area encompassing approximately 21,000 square feet. Maintenance facility components will include shop space for equipment maintenance, storage space, wash rack, bathrooms, changing room, and small office space.

FINDINGS: An Initial Study and Evaluation of Potential Impacts has been prepared by the Agricultural Commissioner's Department (attached). The Initial Study, including an environmental checklist, indicates that the proposed project would not have a significant adverse impact on the environment for the following reasons:

A. The proposed project is relatively small and consistent with nearby uses and the goals and policies of the Inyo/Mono Counties Agricultural Commissioner.

B. The proposed project is relatively small and is not expected to result in potentially significant impacts.

C. Based on the Initial Study and environmental evaluation of the proposed project, it has been found the project does not have the potential to create a significant impact on flora or fauna; natural, scenic and historic resources; the local economy; or, public health and welfare. This constitutes a negative finding in each of the Mandatory findings required pursuant to Section 15065 of the California Environmental Quality Act (CEQA) Guidelines.

The 30-day review period for this Negative Declaration expires on January 3, 2013. The Inyo/Mono Agricultural Commissioner is not required to respond to any comments received after this date. Additional information is available from the Inyo/Mono County Agricultural Commissioner. Please contact George Milovich, 760-873-7860 or gmilovich@inyocounty.us if you have any questions regarding this project.

George L. Milovich 11-28-12

George Milovich Date
Counties of Inyo and Mono Agricultural Commissioner

INYO LOCAL AGENCY FORMATION COMMISSION

CEQA APPENDIX G: INITIAL STUDY & ENVIRONMENTAL CHECKLIST FORM

EVALUATION OF ENVIRONMENTAL IMPACTS:

1) A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).

2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.

3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.

4) "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from Section XVII, "Earlier Analyses," may be cross-referenced).

5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:

a) Earlier Analysis Used. Identify and state where they are available for review.

b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.

c) Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.

6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside

document should, where appropriate, include a reference to the page or pages where the statement is substantiated.

7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.

8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.

9) The explanation of each issue should identify:
a) the significance criteria or threshold, if any, used to evaluate each question; and
b) the mitigation measure identified, if any, to reduce the impact to less than significance issues.

Counties of Inyo & Mono
George L. Milovich
Agricultural Commissioner - Director of Weights and Measures
207 W. South Street, Bishop, CA 93514
Telephone - (760) 873-7860 Fax - (760) 872-1610
E-mail - inyomonoag@gmail.com

Inyo/Mono Agricultural Commissioner's Office

APPENDIX G: CEQA INITIAL STUDY & ENVIRONMENTAL CHECKLIST FORM

1. **Project title:** Inyo/Mono Counties Agricultural Commissioner Maintenance Facility (Maintenance Facility)

2. **Lead agency name and address:** Inyo/Mono Agricultural Commissioner's Office, 207 W. South Street, Bishop, CA.

3. **Contact person and phone number:** George Milovich, 760-873-7860.

4. **Project location:** 218 Wye Road, Bishop, CA.

5. **Land Use Designation:** Heavy Commercial.

6. **Zoning:** C-2, General Commercial.

7. **Description of project** (*Describe the whole action involved, including but not limited to later phases of the project, and any secondary, support, or off-site features necessary for its implementation. Attach additional sheets if necessary):* The project involves construction and operation of the proposed Maintenance Facility at Wye Road in Bishop (APN#008-360-06), which Inyo County operates and leases from the City of Los Angeles, Department of Water and Power (DWP). The project site is a barren, fenced lot that is utilized currently for equipment storage.

The proposed facility will be about 6300 square feet in size, and will include shop space, a wash rack, a changing room, small office area, storage, and restrooms. This facility will be used to provide both maintenance to equipment used for Agriculture, Weights and Measures, Invasive Plant Management, and Owens Valley Mosquito Abatement Program activities, as well as storage space for supplies and small instruments and equipment. This proposed building will not be an addition to department facilities, but rather an update to and replacement for current shop space consisting of four cargo containers without heating or air conditioning, and an outdoor concrete slab.

The building will be a one story prefabricated metal structure, with a maximum height of approximately 18 feet. Construction is expected to begin during 2013, and will involve minor filling and leveling of the site, installation of infrastructure and foundations, and erection of the building. Potable water will be provided via an existing line along Wye Road. Wastewater will be conveyed to an existing line along Wye Road. The proposed building and related infrastructure will be constructed by the winning bidder with authorization from Inyo County. The County will operate the facility after construction.

9. Surrounding land uses and setting: (*Briefly describe the project's surroundings*): The proposed Maintenance Facility is located oat 218 Wye Road in Bishop. Commercial C-1, C-2, and C-HPB lots surround the site. Wye Road runs along the site's northern boundary. An undeveloped C-1/C-2 lot lies to the east of the site. A parking lot and C-1 zoned lot lie to the south of the site. To the west of the site is a C-1 zoned lot with existing buildings.

10. Other public agencies whose approval is required (*e.g., permits, financing approval, or participation agreement*): City of Los Angeles, Department of Water and Power; Eastern Sierra Community Service District; Bishop Fire Protection District; Great Basin Unified Air Pollution Control District (BGUAPCD); City of Bishop; others, if necessary.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:
The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

☐ Aesthetics Resources	☐ Agriculture and Forestry	☐ Air Quality
☐ Biological Resources	☐ Cultural Resources	☐ Geology/Soils
☐ Greenhouse Gas Emissions	☐ Hazards & Haz. Materials	☐ Hydrology/Water Quality
☐ Land Use/Planning	☐ Mineral Resources	☐ Noise
☐ Population/Housing	☐ Public Services	☐ Recreation
☐ Transportation/Traffic	☐ Utilities/Service Systems	☐ Mandatory Findings of Sig.

DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation:

☒ I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

☐ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

☐ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

☐ I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

☐ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

11-20-12

Nathan Reade
Deputy Agricultural Commissioner
Inyo/Mono Counties Agricultural Commissioner's Office

Date

INYO/MONO AGRICULTURAL COMMISSIONER'S OFFICE
ENVIRONMENTAL CHECKLIST FORM

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
I. AESTHETICS – Would the project:				
a) Have a substantial adverse effect on a scenic vista?	☐	☐	☒	☐
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☐	☒
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	☐	☐	☒	☐
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	☐	☐	☒	☐

Discussion: *The project will replace portions of a barren lot with a building and other associated development. This change will be minimal and consistent with other development in the surrounding area. This change will be minimal and will not substantially affect a scenic vista or substantially degrade the existing visual character or quality of the site or surroundings. New lighting will be minimal and consistent with other nearby lighting sources (such as the surrounding developed lands, and nearby parking lot) and will not substantially affect day or nighttime views in the area. No materials that would create substantial sources of glare are anticipated to be utilized. The site is not within a scenic highway. Potential impacts will be less than significant.*

II. AGRICULTURE AND FORESTRY RESOURCES. In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:

a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	☒
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☒
c) Conflict with existing zoning for, or cause	☐	☐	☐	☒

rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?				
d) Result in the loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☒
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?	☐	☐	☐	☒

Discussion: *No Farmland or Williamson Act Contracts exist in the County. No forest land or timberland exists on the site. The property is already utilized for storage purposes, and the project is not expected to result in conversion of nearby agricultural lands. No impacts to agricultural resources are anticipated.*

III. AIR QUALITY: Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:

a) Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☐	☒
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	☐	☐	☐	☒
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	☐	☐	☒	☐
d) Expose sensitive receptors to substantial pollutant concentrations?	☐	☐	☒	☐
e) Create objectionable odors affecting a substantial number of people?	☐	☐	☒	☐

Discussion: *Construction and operation of the Maintenance Facility will result in emissions of criteria pollutants. Due to the relatively small size of the project, these emissions will be limited. The project will not interfere with implementation of any applicable air quality management plan.*

During construction, slight elevations in pollutant concentrations from construction equipment may occur in the immediate area, but no sensitive receptors exist nearby. However, these emissions will be temporary and limited due to the small size of the project, and similar to other sporadic construction activities in the nearby area. Potential impacts are considered less than significant.

Odors from the project are expected to be minimal, most likely limited to temporary construction odors, and less than significant impacts will result.

IV. BIOLOGICAL RESOURCES: Would the project:

a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	☐	☐	☐	☒
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?	☐	☐	☐	☒
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☐	☐	☒
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	☐	☐	☐	☒
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☐	☒
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☐	☒

Discussion: *The project site is barren lot utilized currently as an equipment storage yard. Nearby lands accommodate commercially zoned lots with buildings or used as storage or parking lots. These lands do not accommodate sensitive biological resources.*

Construction and operation of the Maintenance Facility in this location is not expected to have an adverse effect on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game (CDFG) or U.S. Fish and Wildlife Service (USFWS) or a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by CDFG or USFWS.

No federally protected wetlands are expected to be filled, no wildlife movement, corridors, or wildlife nursery corridors are expected to be affected. No local policies or ordinances or Habitat or Natural Community Conservation plans apply to the site.

V. CULTURAL RESOURCES: Would the project:

a) Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?	☐	☐	☐	☒
b) Cause a substantial adverse change in the	☐	☐	☐	☒

significance of an archaeological resource pursuant to Section 15064.5?				
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	☐	☐	☐	☒
d) Disturb any human remains, including those interred outside of formal cemeteries?	☐	☐	☐	☒

Discussion: *The project site is disturbed, and not known to accommodate archaeological or paleontological resources or human remains. No information exists to indicate prior uses of this land, including construction of a now removed auto service station, resulted in the discovery of archaeological, paleontological, or historic resources, or human remains. Ground disturbing activities during construction are expected to be limited due to the relatively small project scope, limited foundation, and lack of basement, and discovery of unknown resources is not anticipated. In the unlikely event that unknown archaeological resources and/or human remains are disturbed during construction, compliance with CEQA Guidelines Section 15064.5 and standard County policies will work to preclude potentially significant impacts.*

VI. GEOLOGY AND SOILS: Would the project:

a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:

i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	☐	☐	☐	☒
ii) Strong seismic ground shaking?	☐	☐	☐	☒
iii) Seismic-related ground failure, including liquefaction?	☐	☐	☐	☒
iv) Landslides?	☐	☐	☐	☒
b) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☒	☐
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	☐	☐	☐	☒
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	☐	☐	☐	☒
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	☐	☐	☐	☒

Discussion: *The project site does not lie within an Alquist-Priolo Earthquake Fault Zone. The site is not known to present a danger of liquefaction. The building will be engineered to meet appropriate seismic standards required by applicable building codes. These and other building requirements will ensure adequate engineering to address non-seismic related ground failure potential. Construction-related*

erosion will be controlled per standard permit requirements and lease provisions. The project site is flat, and nearby lands are relatively level, such that landslides are not anticipated. On-site soils are not known to be expansive. Sewer is available to the project site, and will be utilized for wastewater.

VII. GREENHOUSE GAS EMISSIONS:
Would the project:

a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	☐	☐	☒	☐
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	☐	☐	☐	☒

Discussion: Construction and operation of the project will result in greenhouse gas (GHG) emissions. However, these emissions will be limited due to the relatively small size of the project, and most likely would have been generated absent the project. The relatively low levels of GHG emissions resulting from the project will be less than significant. No conflict with any plan, policy, or regulation for reducing GHG emissions is identified.

VIII. HAZARDS AND HAZARDOUS MATERIALS:
Would the project:

a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☒	☐
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☐	☒	☐
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☐	☒
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	☐	☐	☐	☒
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	☐	☐	☒	☐
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☒
g) Impair implementation of or physically interfere with	☐	☐	☐	☒

an adopted emergency response plan or emergency evacuation plan?

h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	☐	☐	☐	☒

Discussion: *Use of hazardous materials and substances is expected to be limited to everyday construction supplies, and oils, fuels and solvents consistent with the normal operation of any maintenance facility. Incidental quantities of pesticides may be stored on site, but these quantities should not pose a significant risk and will be stored pursuant to state law in locked, contained areas, and handled only by licensed personnel. The site is not known to be on any list compiled pursuant to Government Code Section 65962.5. An Environmental Site Assessment for this site was completed on April 1, 2012. The Eastern Sierra Regional Airport is located .85 miles east of the site, but the amount and type of hazardous materials on the project site should not significantly increase risks to human health nearby due to proximity of an airport. The project will not interfere with any emergency response or evacuation plan. The site is surrounded by commercial buildings and commercially zoned vacant lots, posing no additional wildland fire risk, and further will incorporate modern fire resistant design. Impacts regarding hazards and hazardous materials will be less than significant.*

IX. HYDROLOGY AND WATER QUALITY. Would the project:				
a) Violate any water quality standards or waste discharge requirements?	☐	☐	☐	☒
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	☐	☐	☐	☒
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	☐	☐	☒	☐
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on or off-site?	☐	☐	☒	☐
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	☐	☐	☒	☐
f) Otherwise substantially degrade water quality?	☐	☐	☒	☐
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation	☐	☐	☐	☒

map?

h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	☐	☐	☐	☒
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	☐	☐	☐	☒
j) Inundation by seiche, tsunami, or mudflow?	☐	☐	☐	☒

Discussion: The Maintenance Facility will incorporate standard requirements per applicable codes and the leases to minimize polluted runoff and erosion, and accommodate stormwater flows. The leases and DWP Letter of Permission will include requirements to minimize the potential for polluted runoff. Increased runoff from new impermeable on-site facilities will be conveyed via approved facilities and dispersed appropriately, such as through spreading fields and/or clarifiers, or other approved methods. The project is relatively small, thus minimizing the potential for erosion, siltation, and/or flooding during construction and operation, and does not include any unusual uses that might contribute pollution to stormwater. No substantial changes to drainage pattern of the site are anticipated, and no changes to any stream or river will result. The site is not within a designated flood zone, and is not known to be subject to substantial flooding. No levees or dams are located upstream, and site is not subject to seiche, tsunami, or mudflow. Compliance with standard regulations will ensure less than significant impacts regarding hydrology and water quality.

X. LAND USE AND PLANNING: Would the project:

a) Physically divide an established community?	☐	☐	☐	☒
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☐	☒
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	☐	☐	☐	☒

Discussion: *The project site is zoned C-2 (General Commercial) which allows for the proposed use. The project will not divide any community, and will accommodate greater community benefit. No Habitat or Natural Community Conservation plans apply to the site.*

XI. MINERAL RESOURCES: Would the project:

a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	☐	☐	☐	☒
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?	☐	☐	☐	☒

Discussion: *No significant mineral resources are known to be accommodated on the site. No impact is expected.*

XII. NOISE: Would the project result in the:

a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	☐	☐	☒	☐
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	☐	☐	☒	☐
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☒	☐
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☒	☐
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☒	☐
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒

Discussion. *The project will result in temporary and long-term increases in noise from construction and operation. Construction activities are expected to be short in duration and magnitude due to the relatively small size of the project, and are not expected to substantially interfere with nearby uses. Long-term noise will result from increased activity at the site, but this type of noise is consistent with nearby uses. Noise from mechanical equipment will be minimized through compliance with standard building and specification requirements. Interior noise levels will be controlled through compliance with standard building requirements. Vibration and groundborne noise is primarily expected to be limited to the construction phase, relatively minor due to small project scope, and muted at nearby receptors. The Eastern Sierra Regional Airport is located approximately .85 miles from the site, but the majority of the City of Bishop, including work sites currently utilized by Inyo/Mono Counties Agricultural Commissioner staff, are located within two miles of this airport. Because of this, no changes to employee exposure will occur from this project. Noise and vibration impacts will be less than significant.*

XIII. POPULATION AND HOUSING – Would the project:

a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	☐	☐	☐	☒
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒

Discussion: *The project will accommodate existing demand for the facility and will not require additional employees to operate, and will not induce substantial population growth. No housing or people will be displaced. No significant impact is anticipated.*

XIV. PUBLIC SERVICES: Would the project:

a) Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

Fire protection?	☐	☐	☒	☐
Police protection?	☐	☐	☒	☐
Schools?	☐	☐	☐	☒
Parks?	☐	☐	☐	☒
Other public facilities?	☐	☐	☒	☐

Discussion: *Increased demand for fire and police protection will be minimal, and can be accommodated by existing facilities and staff. The project will not increase the demand for schools or parks,. Impacts are expected to be less than significant.*

XV. RECREATION: Would the project:

a) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	☐	☐	☐	☒
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	☐	☐	☐	☒

Discussion: *This project should not in any way alter the use of recreational facilities. No impact is anticipated.*

XVI. TRANSPORTATION/TRAFFIC – Would the project:

a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?	☐	☐	☒	☐
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	☐	☐	☒	☐
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	☐	☐	☐	☒

d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	☐	☐	☐	☒
e) Result in inadequate emergency access?	☐	☐	☐	☒
f) Result in inadequate parking capacity?	☐	☐	☒	☐
g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	☐	☐	☐	☒

Discussion: *This project should not increase traffic levels above what current use creates. Any increases would be far less than significant, such as infrequent delivery truck traffic. No changes to air traffic patterns will result, and no direct changes to transportation design features are anticipated. Emergency access is adequate, and no conflict with alternative transportation is expected. Parking is adequate currently, and no additional staff will occur due to this project.*

XVII. UTILITIES AND SERVICE SYSTEMS –
Would the project:

a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	☐	☐	☒	☐
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☒	☐
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☒	☐
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	☐	☐	☒	☐
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☒	☐
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	☐	☐	☒	☐
g) Comply with federal, state, and local statutes and regulations related to solid waste?	☐	☐	☒	☐

Discussion: *This project will increase the amount of wastewater generated in the area due to the addition on one sewer hookup, but this increase is not anticipated to be significant. The project does not include unusual uses that would result in wastewater or solid waste that cannot be accommodated by*

local treatment and/or disposal facilities. Any hazardous materials that may be utilized in operations on site will be disposed of in accordance with all applicable rules and regulations. Existing water entitlements and water and wastewater treatment and distribution systems can accommodate the project. Drainage facilities will be provided as required by existing regulations and stipulated in the leases. The Bishop landfill can accommodate solid waste generated, and the project will comply with federal, State, and local statutes related to solid waste. No impact or less than significant impacts are anticipated.

XVII. MANDATORY FINDINGS OF SIGNIFICANCE:

a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	☐	☐	☒	☐
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	☐	☐	☒	☐
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☒	☐

Discussion: *The proposed Maintenance Facility is a relatively minor approximately 6,300 square foot building on a now barren vacant lot used for vehicle and equipment parking. It is consistent with surrounding uses, and has minimal environmental impacts. The project does not have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory. The project does not have impacts that are cumulatively considerable and will not cause substantial adverse effects on human beings.*

References

Alquist-Priolo Earthquake Fault Zoning Act – refer to http://www.consrv.ca.gov/cgs/rghm/ap/Pages/main.aspx

FEMA Flood Maps.

Environmental Site Assessment - Agriculture Commissioner Lease
Prepared by Inyo County Environmental Health, April 1, 2012

CITY OF BISHOP

377 West Line Street - Bishop, California 93514
Post Office Box 1236 - Bishop, California 93515
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www.ca-bishop.us/CityofBishopPublicWorks.htm

December 18, 2012

Inyo/Mono Agricultural Commissioner
207 W. South Street
Bishop, CA 93514

The City of Bishop appreciates the opportunity to review and comment on the Draft Negative Declaration of Environmental Impact and Initial Study regarding Inyo/Mono Agricultural Commissioner Maintenance Facility located at 218 Wye Road, Bishop.

We have the following comments regarding the proposed Maintenance Facility project:

Project Description: The project should include landscaping, especially given that it is an important commercial area and is the agricultural commissioner's facility. Lighting should also be mentioned here.

Description of Project: Same comments as for Project Description on first page. Also, the sewer would probably connect to the Eastern Sierra Community Services District sewer in Wye Road. This connection would be arranged through the city. Drainage will be an important aspect of the project and should be mentioned.

Aesthetics: Landscaping should be included in project. Fugitive light in the project area is a significant problem, so project lighting should **not** be consistent with nearby lighting. Lighting should be the minimum needed for safety and comfort and consistent with dark sky guidelines.

Agriculture and Forestry Resources: Equipment and personnel involved in weed control could inadvertently transport weeds to the project area. This should be mentioned and best practices should be followed to address this

Air Quality: It seems there would be a chance the insecticides and herbicides on the site could be a threat to air quality, if nothing else but the potential to create an odor.

Geology and Soils: It is worth mentioning that the site is within a quarter mile of an Alquist Priolo zone.

Hazards and Hazardous Materials: The potential or perceived potential of impacts from herbicides and insecticides at the site is properly addressed. The specific maximum anticipated

quantities of these substances should be provided and it seems like a least one box could be checked "less than significant with mitigation".

Hydrology and Water Quality: Stormwater handling is a significant issue for this project, especially with increased impervious area. It should be anticipated that runoff would need to be detained, treated, and then either infiltrated or connected to the storm drain planned for Wye Road. If the connection or potential of connection to the storm drain is anticipated, the drainage system should be designed consistent with the Drainage Report for the Wye Road Storm Drain. There are dams upstream of the project. In particular, the project would be inundated by failure of either the Sabrina or South Lake dams.

Transportation / Traffic: The site is essentially vacant so it is not accurate to say the project should not increase traffic levels in the project area. Some sort of projection of traffic generation by employees traveling to and from work and in their course of work could be provided. In addition, the project could increase pedestrian traffic in the area to some degree. The project should be anticipated to include pavement widening (potentially for a portion of a left turn lane) and construction of curb, gutter, and sidewalk and associated dedication of right of way (or equivalanet). Improvements should be consistent with plans prepared for a street improvement project on Wye Road in the early 2000's.

Utilities and Service Systems: The fact that sewer service would probably be connected to the Eastern Sierra Community Services District sewer but would be arranged and paid for with the City of Bishop. In theory, the project would be subject to the agreement between the district and the city that provides that all connections to the district system in the city shall be metered. It may also be worth noting that the district is approaching its treatment capacity, so the ability to transfer an equivalent flow to the city will be essential. It is not clear if there is an existing water service to the parcel. If not, water service could be easily arranged. Storm water issues could also be mentioned here.

The City looks forward to working with Inyo/Mono Agricultural Commissioner, toward the completion of the Maintenance Facility located on Wye Road.

Sincerely,

Gary Schley

Gary Schley
Public Services Officer

Cc: Keith Caldwell, City of Bishop Planning Director
Josh Hart, Inyo County Planning Director

COUNTY OF INYO
PLANNING COMMISSION

MINUTES OF JANUARY 23, 2013 MEETING

COMMISSIONERS:		
WILLIAM STOLL	FIRST DISTRICT	Inyo County Planning Commission
CYNTHIA LITTLE	SECOND DISTRICT	Post Office Drawer L
SAM WASSON	THIRD DISTRICT	Independence, CA 93526
ROSS CORNER	FOURTH DISTRICT	(760) 878-0263
PAUL PAYNE	FIFTH DISTRICT	(760) 872-0382 FAX
		inyoplanning@inyocounty.us

STAFF:	
JOSHUA HART	PLANNING DIRECTOR
DOUG WILSON	INTERIM PUBLIC WORKS DIRECTOR
KEVIN CARUNCHIO	COUNTY ADMINISTRATOR
TANDA GRETZ	SENIOR PLANNER
ADENA FANSLER	ASSOCIATE PLANNER
CATHREEN RICHARDS	ASSOCIATE PLANNER
NOLAN BOBROFF	PLANNING COORDINATOR
DANA CROM	COUNTY COUNSEL

The Inyo County Planning Commission met in regular session on Wednesday, January 23, 2013, in the Administration Building, in Independence, California. Commissioner Wasson opened the meeting at 10:01 a.m.
These minutes are to be considered for approval by the Planning Commission at their next scheduled meeting.

ITEM 1: **PLEDGE OF ALLEGIANCE** – The Pledge of Allegiance was led by Commissioner Payne at 10:01 a.m.

ITEM 2: **ROLL CALL** - Commissioners: Ross Corner, Cynthia Little, Paul Payne, and Sam Wasson were present. Commissioner Stoll was absent.

Staff present: Josh Hart, Planning Director; Dana Crom, County Counsel; Cathreen Richards, Associate Planner; Nolan Bobroff, Planning Coordinator

Staff absent: Kevin Carunchio, County Administrator; Doug Wilson, Interim Public Works Director; Tanda Gretz, Senior Planner; Adena Fansler, Associate Planner

Commissioner Wasson informed the Commission that Items 7, 8, and 9 would be removed from the Agenda and items 4, 5, and 6 would be heard before item 3.

ITEM 4: **NOMINATION & ELECTION OF CHAIRPERSON** – The Commission will accept nominations for chairperson for 2013 and hold an election.

Commissioner Wasson opened nominations. Commissioner Little nominated Commissioner Wasson.

MOTION: Moved by Commissioner Little to elect Commissioner Wasson as Chairperson for 2013. Commissioner Payne seconded.

The motion passed 3-0. Commissioner Wasson abstained and Commissioner Stoll was absent.

ITEM 5: **NOMINATION & ELECTION OF VICE-CHAIRPERSON** - The Commission will accept nominations for vice-chairperson for 2013 and hold an election.

Commissioner Wasson opened nominations. Commissioner Little nominated Commissioner Payne.

MOTION: Moved by Commissioner Little to elect Commissioner Payne as Vice-Chairperson for 2013. Commissioner Corner seconded.

The motion passed 3-0. Commissioner Payne abstained and Commissioner Stoll was absent.

ITEM 6: **APPROVAL OF MINUTES**

a) Minutes from the December 5, 2012 meeting of the Planning Commission were approved with a vote of 4-0. Commissioner Stoll was absent.
b) Minutes from the December 13, 2012 special meeting of the Planning Commission were approved with a vote of 3-0. Commissioner Little abstained and Commissioner Stoll was absent.

ITEM 3: **PUBLIC COMMENT PERIOD** – This item provides the opportunity for the public to address the Planning Commission on any planning subject that was not scheduled on the Agenda.

Brian Desmond, resident of Keeler commented that he moved to Keeler because of the variety of homes and the affordability. He enjoys living there because of the uniqueness that many of the homes possess in the area.

Dan Dickman, resident of Keeler commented that Keeler was a mining town in the early 1900's and is now a community with unique character and people. Mr. Dickman commented that he was happy that Staff recognized in the Staff Report from the previous Planning Commission meeting the need for flexibility with zoning and communities.

Craig Marshall, resident of Keeler commented that his yard is full of "yard art" and that it draws between 800-1000 photographers a year wanting to photograph it. He does not want Keeler to become generic like Southern California communities.

Josh Hart, Planning Director noted that there would be a Zoning Code Update Workshop with the Board of Supervisors on February 5, 2013.

RECESS: A 5-minute recess was called at 10:26 a.m. The meeting was resumed at 10:34 a.m.

ITEM 10: **INYO/MONO COUNTIES AGRICULTURAL COMMISSION MAINTENANCE FACILITY – NEGATVIE DECLARTAION (Action Item and Public Hearing)** – The Inyo/Mono Counties Agricultural Commission proposes to construct and operate a maintenance facility in the City of Bishop on Wye Road. The Planning Commission is conducting a public hearing, reviewing the Negative Declaration/Initial Study (ND/IS) prepared pursuant to the California Environmental Quality

Act (CEQA) for the project, and making recommendations pursuant to the County's CEQA procedures in regard to the ND/IS to the Board of Supervisors.

Josh Hart, Planning Director presented the Staff Report to the Commission.

Chair Wasson opened the public hearing at 10:38 a.m.

George Milovich, Inyo Mono Agricultural Commissioner discussed the need for the project and the specifics of the building they were proposing to build. Commissioner Little asked whether there would be noise generated at night at the site and Mr. Milovich stated that there would be no noise generated at night and very little noise generated during normal business hours.

The public hearing was closed at 10:46 a.m.

MOTION: Moved by Commissioner Little to recommend to the Board of Supervisors to find the following: (1) that the project will not have a significant effect on the environment; (2) that the Negative Declaration reflects the County's independent judgment and analysis; (3) specify that the Inyo/Mono Agricultural Commission is the custodian and location of the documents and other material which constitute the record of proceedings upon which the decision is based; (4) adopt the Negative Declaration; and (5) certify that the provision of the California Environmental Quality Act have been satisfied. The motion was seconded by Commissioner Corner.

The Motion passed 4-0. Commissioner Stoll was absent.

ITEM 11: **SOUTHWEST SOLAR TRANSOFMRATION INITIATIVE** – The Southwest Solar Transformation Initiative (SSTI) is part of the US Department of Energy's Rooftop Solar Challenge. It is made up of regional teams that are public/private partnerships working together to help streamline the permitting, zoning, connection processes and financing of residential and commercial rooftop solar systems. Planning Staff has been working with the San Joaquin Valley team and will update the Planning Commission on their progress.

Cathreen Richards, Associate Planner made a presentation to the Commission and stated that the goal of the project is to place solar on existing buildings. Ms. Richards added that as part of the project, Inyo County was analyzed for its solar potential on existing buildings and was evaluated on their permitting process and was scored on four categories including: Permitting and Zoning, Planning and Zoning, Financing Options and Marketing. Ms. Richards demonstrated to the Commission the website designed for the purpose of streamlining the permitting process and commented that it is a good source of information.

Chair Wasson asked about the DWP program recently introduced and Ms. Richards stated that for properties serviced by DWP, the owner should begin with DWP.

Commissioner Little asked what the benefits would be for placing solar on more buildings and Ms. Richards stated that in the long term, solar would save the property owner money and they would be reducing their impact on the environment.

COMMISSIONERS' REPORT/COMMENTS –

- Commissioner Payne commented that he had discussed the Branson project with people in the community and they generally seemed in favor of the project.
- Commissioner Little commented that the hospital was having issues with employee benefits and terms of employment.
- Chair Wasson commented that there has been a lot of interest in the County concerning the Zoning update and their main issues are with parking and storage on standard residential lots.

DIRECTOR'S REPORT-

- Mr. Hart provided the following information:
  - Fish & Wildlife intends to address the Planning Commission in February
  - There would be a Zoning Workshop with the Board of Supervisors on February 5, 2013
  - The CA Broadband Co-Op would make a presentation to the Planning Commission in February concerning Digital-395.
  - The County has been selected by the EPA to participate in a program that allows for planning for the elderly
  - The Board approved the appointments to the NRAC and that there would likely be a meeting in either February or March.

- Dana Crom, County Counsel commented that the Board of Supervisors has authorized the County to be an intervener in the BrightSource Hearings. This designation allows for the County to fully participate in the March 12 hearings. The Hearings will be in Shoshone, CA and are expected to last at least a week. They will be available to watch over web-ex. Ms. Crom also noted that the applicant has withdrawn their application for a similar project in Riverside County.

ADJOURNMENT - With no further business, Chair Wasson adjourned the meeting at 11:26 a.m., to reconvene in Regular Session on Wednesday, February 27, 2013 at 1:00 p.m. in the Board of Supervisors Room, Administrative Center, Independence, California.

Prepared by:
Nolan Bobroff
Inyo County Planning Department

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

☐ Consent ☐ Departmental ☐ Correspondence Action ☐ Public Hearing
☐ Schedule time for ☐ Closed Session ☐ Informational

For Clerk's Use Only:
AGENDA NUMBER
28

FROM: Public Works Department

FOR THE BOARD MEETING OF: April 15, 2014

SUBJECT: Receive report on Town Water Systems and authorize staff to commence operation contract negotiations with Wilder Barton, Inc.

DEPARTMENTAL RECOMMENDATIONS: Staff recommends that the Board direct staff to negotiate a contract with Wilder Barton, Inc. to operate the County owned Lone Pine, Independence and Laws Town Water Systems and to implement a transition plan for the operations.

CAO RECOMMENDATION:

SUMMARY DISCUSSION:

Background:

Inyo County has contracted with Owenyo Services to operate the Town Water Systems since 1999. The most recent contract with Owenyo Services was entered into in 2007 and has been extended 11 times.

On August 20, 2013, Staff made a presentation to the Board about both the long-term history of the Town Water Systems and more recent attempts make the systems, at a minimum, cost neutral. At that meeting, the Board had the alternatives of entering into an agreement to lease the systems to a private entity or to direct staff to do additional analysis. The Board opted to have staff prepare additional analysis.

On October 8, 2013, Staff presented a recommended process for determining the most efficient way to operate the Town Water Systems. The process recommended was as follows:

1. Develop Operating Procedures with assistance from California Rural Water Association(CRWA)

a. Identify actual operational requirements and activities
b. Minimize contracting of unknowns
c. Budget contingencies vs. pay for contingencies

2. Request proposals based upon well defined, specific scope

a. Broaden the market
   i. Do not limit type of proposers- private, public, quasi-public
b. Determine baseline contract value
   i. Develop in-house proposal for comparison purposes

3. Evaluate Rates

a. Utilize new operational costs to rationally determine and implement adjustments to rates, if necessary

The Board concurred with the process outlined at that meeting. Additionally, staff provided a comparison of rates from various types and sizes of water systems in the region.

Staff proceeded based on the direction provided from the Board. On December 3, 2013, staff presented the Operating Procedures developed in conjunction with the California Rural Water Association to the Board for review consistent with Item #1 above.

On January 7, 2014, staff requested and received authorization to issue a Request for Proposals consistent with Item #2 above. Also, consistent with Item #2 above, staff presented an in-house operations proposal for use as a baseline for comparing contract proposals. Staff identified an annual cost of ~$385,000 to operate and maintain the systems with County forces. Using that as a basis, staff recommended that the cost of an operations contract based upon the Operating Procedures would need to be approximately $195,000 to be financially equivalent to in-house operations.

Discussion:
The Request for Proposal was issued on January 29, 2014. In addition to the base proposal, a deductive alternative to not include the Laws System was included. A pre-proposal walk through of all the systems was held on February 11, 2014. There were 23 "plan/proposal holders" and 7 firms were present for the pre-proposal walk through. Although the Operating Procedures did generate substantially more interest than had been shown in the past, it did not actually translate into additional proposals. Only two proposals were ultimately submitted. In speaking to firms that attended the walk through but did not propose, it was obvious that size of the contract and the remoteness of the area made it infeasible for larger, out of the area firms to propose. The two proposals were received from Owenyo Services and from Wilder Barton, Inc.

The two proposals received differed widely in price. Owenyo Services' proposal was $336,052 annually for the base proposal and $329,728 annually for the deductive alternative. Wilder Barton, Inc.'s proposal was $188,000 for both the base bid and the deductive alternative.

Each firm was interviewed to both ensure that they were competent to operate the systems and that staff had not missed some major component in the Operating Procedures. The proposals themselves were rated on a 100 point scale. Efficiency and cost effectiveness accounted for 40 points; demonstrated experience accounted for 30 points; and staffing capabilities and qualifications accounted for 30 points. The proposal accounted for 75% of the firms score. The interview held with each firm accounted for 25%. All four raters scored Wilder Barton, Inc. highest of the two firms.

Wilder Barton, Inc.'s proposal in the amount of $188,000 per year compares very favorably with staffs' estimated cost of $195,000 per year for that portion of the Operating Procedures. Staff is recommending that the Board authorize staff to negotiate an operating contract and develop a transition plan with Wilder Barton, Inc. Both the contract and transition plan will be brought back to the Board for final consideration.

ALTERNATIVES:
Direct staff to provide additional information or perform additional analysis.

Agenda Request Form
Board meeting of April 15, 2014
Subject: Town Water System Request for Proposal

OTHER AGENCY INVOLVEMENT:
California Rural Water Association
City of Bishop assistance with selection process

FINANCING:
None at this time. The contract, if approved in the future, will be funded from the Budget Units 152101, 152201, and 152301. Staff anticipates no subsidy from the County's General Fund to operate the systems.

APPROVALS		
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS (Must be reviewed and approved by County Counsel prior to submission to the board clerk.) Margaret Bemis-Williams	Approved: ✓ Date 04/07/14
AUDITOR/CONTROLLER	ACCOUNTING/FINANCE AND RELATED ITEMS (Must be reviewed and approved by the auditor/controller prior to submission to the board clerk.)	Approved: yes Date 04/08/2014
PERSONNEL DIRECTOR	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)	Approved: Date

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) Date: 4/9/14

For Clerks Use Only

AGENDA NUMBER

29

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

[] Consent [X] Departmental [] Correspondence Action [] Public Hearing

[] Scheduled Time for [] Closed Session [] Informational

FROM: **Sheriff Bill Lutze**

FOR THE BOARD MEETING OF: **April 15, 2014**

SUBJECT: Request to promote one (1) Deputy Sheriff to Corporal, fill two (2) vacant Deputy Sheriff Positions and one (1) vacant Correctional Officer Position.

DEPARTMENTAL RECOMMENDATION:

Request the Board find that consistent with the adopted Authorized Review Policy;

1) The availability of funding for the requested position comes from the General Fund, as certified by the Sheriff, and concurred with by the County Administrator, and the Auditor Controller, and
2) where it is unlikely that all of the positions could be filled through internal recruitments, an open recruitment is appropriate to ensure qualified applicants apply; and
3) approve the internal recruitment and filling of one (1) Corporal position (Range 070SA-070SD, $4,511-$6,200)
4) Approve the hiring of one (1) Deputy Sheriff position (Range 67SA-67SC,-$4,107 - $ 5,510) and a second Deputy if both the first and second positions can be filled through lateral placement, and authorize up to the D step for qualified lateral applicants.
5) Approve the open recruitment and hiring of one (1) Correctional Officer position (Range 64 $3,735 - $4,539).

CAO RECOMMENDATION:

SUMMARY DISCUSSION:

The Sheriff's Office presently has two (2) deputy sheriff position vacancies and continues to maintain one (1) frozen deputy sheriff position. One (1) position is due to the recent retirement of a Lieutenant and one (1) additional deputy sheriff position has been vacated due to a recent termination. In addition, a recent resignation has created one (1) correctional officer position vacancy. The Sheriff's Office will conduct an internal recruitment for one (1) corporal position. The Sheriff's Office will be interviewing lateral candidates to establish an eligibility list for the two (2) deputy sheriffs positions and request that your board authorizes, pursuant to the candidate's qualifications and experience, the hiring of a qualified candidates up to the D step. We are currently in the process of accepting applicants for an entry level correctional officer. Hiring of these positions will fall within the Sheriff's Office current authorized strength.

ALTERNATIVES:

Deny the internal promotion of one (1) corporal, filling the two (2) Deputy Sheriff positions and one (1) Correctional Officer position.

OTHER AGENCY INVOLVEMENT:

Personnel
Auditor

FINANCING:

The one (1) Corporal position and the two (2) Deputy Sheriff positions are currently included in the 2013-2014 board approved Sheriff & Jail Safety budgets (022710 & 022910) . As the positions are filled, there may be some movement between budgets for new and/or existing positions, depending on where the employee is assigned. All of the current vacancies exist in the Jail Safety budget (022910). Regardless of which Safety budget the employees are placed, these positions fall within the Sheriff's Office current authorized strength.

The one (1) Correctional Officer position is included in the 2013-2014 board approved Jail General budget (022900).

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS *(Must be reviewed and approved by county counsel prior to submission to the board clerk.)* Approved: _____ Date_____
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (*Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)* Approved: yes Date 4/2/2014
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) Approved: ✓ Date 04-03-2014

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) _____ Date: _____

For Clerks Use Only

AGENDA NUMBER

30

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

[] Consent [X] Departmental [] Correspondence Action [] Public Hearing

[] Scheduled Time for [] Closed Session [] Informational

FROM: Sheriff's Department

FOR THE BOARD MEETING OF: April 15, 2014

SUBJECT: Distribution of FY 2011-2012 C.O.P.S. (AB 3229) funding, and amend the FY 2013-2014 Board approved budget

DEPARTMENTAL RECOMMENDATION:

Request Board: (A) declare Dell as a sole source and authorize the purchase of Dell R520 Server for RIMS system, in the amount of $8,997.20 including taxes; and
(B) declare Concept Development Corporation as a sole source and authorize the purchase of a CarbonFire 10 Robot Adapter System in the amount of $5,995.60 including taxes; and
(C) award bid to Adamson Police Products and authorize the purchase of 3 Protech FAV MKII enhanced SM01 tactile medic vests in the amount of $7,660.98 including taxes; and
(D) declare Digital Ally as a sole source and authorize the purchase of 30-FirstVu HD officer-worn body cameras in the amount of $27,758.00 including taxes; and
(E) declare Digital Ally as a sole source and authorize the purchase of 15-DVM 800 digital video system car cameras in the amount of $54,944 including taxes; and
(F) Declare Med-Eng as sole source and authorize the purchase of EOD 9 suit with visor kit and helmet in the amount of $24,859.44 including taxes; and
(G) amend the FY 2013-2014 Sheriff's General Budget Unit #022700 by increasing estimated revenue in Citizens Options Public Safety Revenue (Revenue code #4488) by $130,216 and increasing appropriations in Equipment (object code #5650) by $14,993; and increasing appropriations in Law Enforcement Special (object code 5313) by $115,223 . (4/5's vote required).

CAO RECOMMENDATION:

SUMMARY DISCUSSION:

The Sheriff's department receives AB3229 money, C.O.P.S. (Citizens Option for Public Safety), funding from the state, and we have 2 years to spend the funds. On December 13, 2011, your Board held a public hearing for the use of 2011-2012 COPS funds and approved the use of the money for equipment and programs to support the needs of frontline law enforcement. The current COPS fund balance for 2011-2012 is $112,547.84 (concurred with the County Auditor) to be expended by June 30, 2014. The Sheriff's Office would like to purchase the following:
(A) A new Dell R520 Server, which is recommended by Information Services to isolate mission critical server applications from non-critical applications for our RIMS software;

(B) A carbonFire 10 Robot Adapter System is used with the mechanized entry device and is used to open and/or explode suspicious packages, pipe bombs and other suspicious objects without handling explosives. In some circumstances, it will detonate those objects;
(C) 3, tactical vests with carriers. These vests are used by our special enforcement detail who enter high risk areas such as barricaded suspects;
(D) 30 body cameras to assist deputies. These body cameras will be worn and used in addition to the car cameras. The units allow video and audio taping of contact outside of the vehicles camera range and field of view. Our current infrastructure will be used to download the information,
(E) 10 car cameras to be used in patrol vehicles. These car cameras are next generation cameras to begin replacement of our current cameras, which are beginning to have difficulty and need repairs. Parts and repairs are becoming obsolete on the old cameras; and
(F) A Med-Eng EOD 9 enhanced mobility suit (explosive suit) including visor kit and helmet. This suit will be used by our explosive Deputy when dealing with all explosives and provides the maximum protection and safety available.

We will adhere with the County purchasing policy as required. Sole source justification forms are attached. This will expend all of the 2011-2012 money that needs to be spent by June 30, 2014, and also will spend $17,667.38 of the 2012-2013 allocation of $98,449.82 that needs to be spent by June 30, 2015. The Board held a public hearing on April 2, 2013 for the use of the 2012-2013 COPS funds. We will be coming before the Board again at a later date to request expending the remainder of the 2012-2013 COPS funding.

ALTERNATIVES:

Not approve the purchases and find a different use for the funds under the guideline of AB3229. This is not recommended, as we have a need for the items requested, and we need to expend the 2011-2012 allocation by June 30, 2014, or return the funds.

OTHER AGENCY INVOLVEMENT:

None

FINANCING:

Funds are available in the C.O.P.S. Trust #500103 and appropriations will be available with approval of the budget amendments in this agenda request. The Auditor's office will make the transfer as expenses occur. If today's request is approved in the amount of $130,216.00, we will have met our obligation to spend the remaining $112,547.84 of 2011/12 funding by June 30, 2014, and $17,667.38 of the $98,449.82 of the 2012/13 funding.

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS *(Must be reviewed and approved by county counsel prior to submission to the board clerk.)* Approved: _____ Date_____
AUDITOR/CONTROLLER: Amy Shepherd	ACCOUNTING/FINANCE AND RELATED ITEMS (*Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)* Approved: yes Date 4/3/14
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.) Approved: _____ Date_____

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received) _____ Date: 4-3-14

CAO/Budget Officer BUDGET RELATED ITEMS (Must be reviewed and approved by the Budget Officer prior to submission to the Board Clerk)

Technology Purchase Request

To request a technology purchase, please complete this request form and submit the form to:

County of Inyo Information Services
168 N. Edwards Street
Independence, CA 93526

Tel: 760-878-0245
Fax: 760-872-2712

Date: 03/07/2014

What is the name of the person making this request? Help Desk

What budget unit will pay for the purchase?

What object code will be charged?

What equipment is requested Dell R520 Server

What is the business justification for the request [attach separate page(s) if necessary]?

Isolate mission critical server applications from non-critical applications.

Are the funds identified for the cost of this request required to be used for this item(s)?
☒ YES ☐ NO
If YES, by what date must the funds be expended?

If equipment is being requested (computer, printer, etc.) where will the equipment be physically located (street address is required)? Indy Sheriff Admin Center

If equipment is being requested, will this equipment replace existing equipment? ☐ YES ☒

If replacement equipment is being requested, please describe equipment to be replaced, including serial number on any CPU (PC) unit:

Following for Information Services use only:

WR#: 12192
Replaced equipment specifications:

Information Services Recommendation:	
1	**Dell R520 Server** **Dell EQuote# 1013724089877 aprox $ 8,998.00**

Building and Maintenance Signature Required: ☐YES ☒NO

Electrical Requirements: 115vac NEMA 5-15P

Information Services Analyst: _____ Date: 3/17/2014

Information Services Manager: _____ Date: 3/18/14

Building and Maintenance: _____ Date: _____

Requesting Department Head: _____ Date: _____

After all required signatures are obtained, requesting department should forward this form to Jean Navarro @ Information Services.

2

Jean Navarro

From: Dell (please do not reply) <automated_email@dell.com> on behalf of Dell Inc. <dell_automated_email@dell.com>
Sent: Thursday, March 06, 2014 1:46 PM
To: Jean Navarro
Subject: Dell Computer - Saved Quote Information - 1013724089877

Equote #1013724089877

Dear Customer

An eQuote containing items from Dell, Inc. has been saved in your Dell Online Store and sent to you from Dell. The eQuote will be held for 30 days to allow for completion of the order. The eQuote will expire on 4/5/2014.

Per your request, this eQuote has been forwarded to the following recipients:

Name	Email
Navarro Jean	jnavarro@inyocounty.us
Navarro, Jean	jnavarro@inyocounty.us

Your Comments:
with KVM Switch

To retrieve this eQuote:
1. Navigate to http://www.dell.com/account .
2. Sign in to County of Inyo Contract Code # N39913654.
3. Select eQuote Number 1013724089877 from the eQuote module on your Premier Dashboard or by clicking the eQuotes link at the top of your Premier home page.

A summary of this eQuote as of 3/6/2014 is provided below:

eQuote Details

eQuote Number: 1013724089877
eQuote Name: sheriff5
Description: PowerEdge R520
Saved: 3/6/2014
Expires: 4/5/2014
Created By: Navarro Jean
jnavarro@inyocounty.us
Premier Pages: County of Inyo Contract Code # N39913654
ARRA funding designation: NO stimulus funding
Notes / Comments: with KVM Switch
Purchasing Agent: Jean Navarro

Ship to Address:

Navarro Jean
County of Inyo
168 N. Edwards St
Independence, CA
93526

760-8780398

eQuote Contents

Item	Description	Unit Price	Quantity	Subtotal
[redacted]	PowerEdge R520 Catalog Number: en14017	$ 10,939.00	1	$ 10,939.00

Module	Description	Product Code	Sku	ID
PowerEdge R520	PowerEdge R520, Intel® Xeon® E-24XX v2 Processors	R520	[210-ACCY] [329-BBXH]	1
Processor	Intel® Xeon® E5-2430 v2 2.50GHz, 15M Cache, 7.2GT/s QPI, Turbo, 6C, 80W, Max Mem 1600MHz	E524302	[317-9826] [338-BDWE]	1550
Additional Processor	Intel® Xeon® E5-2430 v2 2.50GHz, 15M Cache, 7.2GT/s QPI, Turbo, 6C, 80W	2E52432	[317-9826] [374-BBFI]	1551
Memory Configuration Type	Performance Optimized	PEOPT	[331-4428]	1562
Memory DIMM Type and Speed	1333 MHz RDIMMs	1333RD	[331-4422]	1561
Memory Capacity	(6) 4GB RDIMM, 1333 MT/s, Low Volt, Dual Rank, x8 Data Width	4R3LDR	[317-5135]	1560
Operating System	No Operating System	NOOS	[420-6320]	1650
OS Media kits	No Media Required	NOMED	[421-5736]	1652
Chassis Configuration	3.5" Chassis with up to 8 Hard Drives	8HDHPHW	[318-2065] [331-7108]	1530
RAID Configuration	Unconfigured RAID for H710P/H710/H310 (1-8 HDDs)	URH7H3	[331-7095]	1540
RAID Controller	PERC H710 Integrated RAID Controller, 512MB NV Cache	PH710IR	[342-3529]	1541
Hard Drives	(8) 600GB 15K RPM SAS 6Gbps 3.5in Hot-plug Hard Drive	60015H	[342-2056]	1570
Power Supply	Dual, Hot-plug, Redundant Power Supply (1+1), 750W	RPS750	[331-4605] [331-7112]	1620
Power Cords	(2) NEMA 5-15P to C13 Wall Plug, 125 Volt, 15 AMP, 10 Feet (3m), Power Cord	125V10F	[310-8509]	1621
Embedded Systems Management	iDRAC7 Enterprise	IDRAC7E	[421-5340] [421-6085]	1515
Add-in Network	On-Board Broadcom 5720 Dual Port 1Gb LOM	OBNIC	[430-4715]	1514

Adapter				
Rack Rails	ReadyRails™ Sliding Rails With Cable Management Arm	RRCMA	[331-4433]	1610
Bezel	Bezel	BEZEL	[318-1375]	1532
Internal Optical Drive	DVD+/-RW, SATA, Internal	DVDRW	[313-9090]	1600
System Documentation	Electronic System Documentation and OpenManage DVD Kit for R520	EDOCS	[331-7116]	1590
PCIe Riser	Risers with up to 4 x16 PCIe Slots	RSR2P	[331-7118]	1510
Shipping	PowerEdge R520 Shipping	SHIP	[331-7113]	1500
Hardware Support Services	4 Year ProSupport 4HR 7x24 Onsite: Non Mission Critical	U4IP4HB	[938-8904] [938-8944] [939-9437] [939-9677] [989-3439] [996-8331]	29
Installation Services	No Installation	NOINSTL	[900-9997]	32
Remote Consulting Service	Declined Remote Consulting Service	NORCS	[973-2426]	35
Keep Your Hard Drive	Keep Your Hard Drive, 4 Years	KYHD4Y	[981-0393]	159
Proactive Maintenance	Maintenance Declined	NOMAINT	[926-2979]	33
KMM / KVM	Avocent AutoView 3008 and rack mount 17in TFT LCD with (4) USB Dongles	A3376441		7045

Avocent AutoView 3008 and rack mount 17in TFT LCD with (4) USB Dongles Catalog Number: A3376441	$ 1,010.00	1	$ 1,010.00

eQuote subtotal	$ 11,949.00
promotional discounts*	-$ 3,465.21
shipping*	$ 0.00
shipping discount*	$ 0.00
tax*	$ 513.41
eco fees*	$ 0.00
eQuote Total*	$ 8,997.20

*The eQuote total, including applicable taxes and additional fees, may be viewable online.

Thank you for shopping and creating your eQuote online. We hope you find it useful in making your purchase and will continue to think of Dell for all of your technology needs.

Sincerely,
Dell Online Sales

Shipments to California:
For certain products, a State Environmental Fee of up to $10 per item may be applied to your invoice beginning January 1, 2005. Prices in your cart do not reflect this fee. For more information refer to URL: http://www.dell.com/environmentalfee

Shipments to Alberta, Canada:
For certain products, a Provincial Environmental Fee will be applied to your invoice. Prices in your online order do not reflect this fee. For more information refer to URL: http://www.dell.ca/canadaenvironmentalfee

Sole Source Justification Form

Sole Source: Is awarded for a commodity or services, which can only be purchased from one supplier, usually because of its specific technological requirements, availability or unique patented manufacture. The lack of planning is not an overriding circumstance.

This is a sole source because:

☒ There is only one known source because:

- ☒ This is a sole provider of a licensed, copyrighted, or patented good or service.
- ☐ This is a sole provider of items compatible with existing equipment or systems.
- ☐ This is a sole provider of factory-authorized warranty service.
- ☐ This is a sole provider of goods or services that perform the intended function or meet the specialized needs of the County (Please detail in an attachment).

☐ One source is the only practical way to respond to overriding circumstances that make compliance with competitive procedures under the Authority's policies not in the best interest of the Authority (Please detail in an attachment).

Please attach a memorandum to explain why the goods or services are not available elsewhere, include names and phone numbers of firms contacted.

See attached letter from vendor.

- Other brands/manufacturers considered
- Other suppliers considered
- Other (i.e., emergency)

Describe the item or service, its function and the total cost estimate (if practical, separate labor and materials) in the space below or in a separate attached label: Description of Item or Service. Dell R520 Server to isolate mission critical server applications from non-critical applications. This is recommended by Information Services. Total cost is $8,997.20	
DEPARTMENT CONTACT PERSON & TITLE Janis Odum/Information Services	
DEPARTMENT NAME Sheriff's	PHONE 878.0327/0398
REQUESTED SUPPLIER/CONSULTANT NAME Dell	SUPPLIER CONTACT PERSON Via Equote by Jean Navarro in Info Systems
SUPPLIER ADDRESS	SUPPLIER CONTACT'S PHONE NUMBER

The County's Purchasing Policy Manual Section III.(E), Exceptions to the Competitive Process/Sole Source and Section IV.(I), Sole Source Requests for Independent Contractors, describe when sole sourcing is permitted. By signing below, Requestor acknowledges that he/she has read and understands the County's policy on sole source procurements.

Janis L Odum — *Signature of Requestor*

4/3/14 — *Date*

President/CEO Approval

Date

EOD QUOTATION

QUOTATION NO. **020314A**
DATE: 2/3/2014

E.I.N. 86-0703405
CAGE CODE: 0W2A5
DUNS NO. 803419316

TO:

KEITH HARDCASTLE
INYO COUNTY SHERIFF'S OFFICE

Registered: Central Contractor Registration Database (CCR)

QUOTATION VALID FOR 60 DAYS good thru april per phone call 3/27/14 4:35pm JO

SHIP VIA: UPS Ground

Terms per Contract:
Government Credit Card or Net 30 Days

CONTACT: **KEITH HARDCASTLE**
PHONE:
EMAIL: **khardcastle@inyocounty.us**

Point of Contact: Rich Langner

QTY	PART NO	Units		Unit Price	Total Ea.
1	CRS-26400	Each	CarbonFire10 Robot Adapter System - includes all the following parts * CarbonFire10 Barrel Parachute Tube Parachute Robot Barrel Mount with Picatinny Clamp On Mount Parachute Cap Parachute Retainer SL-150 EOD 12 Ga. Red Laser Boresighter MAG-FIRE Titanium Breech Assembly (Breech & Breech Plug) Dual Green Laser Sighting System Polymer Carrying Case *CarbonFire Barrels are Warranted for 10 Years **FOB: Destination**	$5,495.00	$5,495.00
				SUBTOTAL	$5,495.00
					439 60
				Shipping Charges	$61.00
				TOTAL	**$5,556.00**

REMIT TO:
Concept Development Corp.
P.O. Box 18970
Fountain Hills, AZ 85269-8970

EFT INFO:
First Scottsdale Bank - Scottsdale, AZ
SWIFT: PCBBUS66
Routing No. 122106332
Account No. 201000004471

5995 60 00

CONCEPT DEVELOPMENT CORPORATION
P.O. Box 18970 Fountain Hills, AZ 85269-8970
(800) 472-4405 (480) 836-4434 Fax (480) 836-4435
www.con-dev.com / sales@con-dev.com

CONCEPT DEVELOPMENT CORPORATION

COMBATING TERRORISM

SOLE SOURCE CERTIFICATION
CarbonFire10
EOD-OPS-PAK

Manufacturer: Concept Development Corporation
16611 E. Laser Drive
Fountain Hills, AZ 85268
(800) 472-4405 FAX (480) 836-4435
www.con-dev.com

DESCRIPTION:

Concept Development Corporation is the developer, manufacturer and sole source for the CarbonFire10 Disrupter and the CarbonFire10 EOD-OPS-PAK.

The CarbonFire10 Disrupter System is unique to Concept Development Corporation and has been awarded U.S. Patent 8,413,570.

The CarbonFire10 is constructed of light weight titanium and is carbon fiber wrapped. It is lighter and stronger than steel and is the only disrupter that has a 10 year warranty.

Due to the unique capabilities of the CarbonFire10 system, which include its light weight, ejection system and aerodynamic brake, it is has been selected for use with the smaller robots such as the Dragon Runner DR20 and the Avatar II.

F. Richard Langner, President/CEO

Form **W-9**
(Rev. January 2011)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

Give Form to the requester. Do not send to the IRS.

Print or type See Specific Instructions on page 2.

Name (as shown on your income tax return) CONCEPT DEVELOPMENT CORPORATION

Business name/disregarded entity name, if different from above

Check appropriate box for federal tax classification (required): ☐ Individual/sole proprietor ☒ C Corporation ☐ S Corporation ☐ Partnership ☐ Trust/estate

☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▪

☐ Other (see instructions) ▪

☐ Exempt payee

Address (number, street, and apt. or suite no.) 16611 E. LASER DRIVE

Requester's name and address (optional)

City, state, and ZIP code FOUNTAIN HILLS, AZ 85268

List account number(s) here (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see How to get a TIN on page 3.

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number

☐☐☐ - ☐☐ - ☐☐☐☐

Employer identification number

8 6 - 0 7 0 3 4 0 5

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. citizen or other U.S. person (defined below).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 4.

Sign Here | Signature of U.S. person ▪ | Date ▪ February 13, 2013

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

Sole Source Justification Form

Sole Source: Is awarded for a commodity or services, which can only be purchased from one supplier, usually because of its specific technological requirements, availability or unique patented manufacture. The lack of planning is not an overriding circumstance.

This is a sole source because:

☒ There is only one known source because:

- ☒ This is a sole provider of a licensed, copyrighted, or patented good or service.
- ☐ This is a sole provider of items compatible with existing equipment or systems.
- ☐ This is a sole provider of factory-authorized warranty service.
- ☐ This is a sole provider of goods or services that perform the intended function or meet the specialized needs of the County (Please detail in an attachment).

☐ One source is the only practical way to respond to overriding circumstances that make compliance with competitive procedures under the Authority's policies not in the best interest of the Authority (Please detail in an attachment).

Please attach a memorandum to explain why the goods or services are not available elsewhere, include names and phone numbers of firms contacted.

See attached letter from vendor.

- Other brands/manufacturers considered
- Other suppliers considered
- Other (i.e., emergency)

Describe the item or service, its function and the total cost estimate (if practical, separate labor and materials) in the space below or in a separate attached label: Description of Item or Service. CarbonFire 10 Robot Adapter System to be used with the mechanical entry device we purchased previously. Total amount is $5,996.60	
DEPARTMENT CONTACT PERSON & TITLE Keith Hardcastle/Janis Odum	
DEPARTMENT NAME Sheriff's	PHONE 878.0327/0326
REQUESTED SUPPLIER/CONSULTANT NAME Concept Development Corporation	SUPPLIER CONTACT PERSON Rich Langner
SUPPLIER ADDRESS P.O. Box 18970 Fountain Hills, AZ 85269-8970	SUPPLIER CONTACT'S PHONE NUMBER 800.472.4405

The County's Purchasing Policy Manual Section III.(E), Exceptions to the Competitive Process/Sole Source and Section IV.(I), Sole Source Requests for Independent Contractors, describe when sole sourcing is permitted. By signing below, Requestor acknowledges that he/she has read and understands the County's policy on sole source procurements.

Janis L Odum — 4/4/14

Signature of Requestor — *Date*

President/CEO Approval — *Date*

adamson police products

Est. 1980

QUOTATION 28MAR14	**SUBMITTED BY: TONY DUCOURNEAU**
IINYO COUNTY SHERIFF	**ADAMSON POLICE PROCUCTS**
	10764 Noel St., Los Alamitos, CA 90720
	Cell 818-984-9485 FX 818-776-0170

QUANTITY	DESCRIPTION	PRICE	AMOUNT
3	PROTECH FAV MK II ENHANCED SM01 IIIA COLOR: A-TAC	1,456.50	4,369.50
3	PROTECH DETACHABLE COLLAR	122.25	366.75
3	PROTECH DETACHABLE THROAT	113.60	340.80
3	PROTECH DETACHABLE UPPER ARM PROTECTION	305.50	916.50
3	PROTECH DETACHABLE ENHANCED GROIN	244.40	733.20
3	PROTECH SET OF (6) MOLLE POUCHES	122.25	366.75
	ALL ARMOR IS SM01 IIIA NIJ0101.06 COMPLIANT		
	Thank you for this request		
	Tony Ducourneau		
	8% TAX		567.48
	FREIGHT FREE		
	Quote expires in 60 days	**TOTAL**	7,660.98

PROFORCE LAW ENFORCEMENT
3009 N. HWY 89 PRESCOTT, AZ 86301
TEL: (800) 367-5855 FAX: (928) 445-3468 www.proforceonline.com

QUOTATION

Department: Inyo County Sheriff's (CA)
Attention: Paul Baldwin
Phone #:

Date: March 28, 2014
Expiration Date: May 12, 2014
Email/FAX #: pbaldwin@inyocou

This Quote is Valid for 45 days. Call 800-367-5855 if Quote is pending at expiration date.

ITEM #	PRODUCT DESCRIPTION	QTY	UNIT PRICE	EXTENDED PRICE
FAV MKII ENHANCHED	SM01 SERIES (FRONT/BACK/6"X10" SIDE/SHOULDER PROTECTION)	3	1,576.47	4,729.41
	RANGER GREEN, SIZE TBD		-	
COLLAR	OPTIONAL COLLAR (DETACHABLE) RANGER GREEN	3	129.41	388.23
THROAT	OPTIONAL THROAT (DETACHABLE) RANGER GREEN	3	117.65	352.95
UPPER ARM	OPTIONAL UPPER ARM (DETACHABLE) RANGER GREEN	3	323.53	970.59
GROIN	OPTIONAL STA GROIN PROTECTION (DETACHABLE) RANGER GREEN	3	229.41	688.23
POUCH SET	SET OF 6 POUCH SET - POUCHES TBD	3	129.41	388.23
			HANDLING	
			SUBTOTAL	7,517.64
		8.000%	SALES TAX	601.41
			SUBTOTAL	8,119.05
TRADES:				
EXTENDED WARRANTIES:				
			GRAND TOT	8,119.05

Notes: Payment Terms: Net 30 days from Invoice date by cash, check, or money order.
Order may include partial shipments. If not allowed, separate PO will be necessary.
Standard Manufacturer's Warranty applies to all purchases, unless otherwise noted.
Quote is based on stated quantities, and is subject to availability and manufacturer's price changes.
20% Restocking Fee on all stocked items. All Special Order Sales are final.

We sincerely appreciate your law enforcement business and look forward to serving you in the future!

Respectfully,
PROFORCE LAW ENFORCEMENT

Kari Martin
Law Enforcement Specialist

IMPORTANT: To order, please sign below, attach purchase order, and FAX to 928-445-3468

Quote Acceptance:

Printed Name _____ Date: _____

PROFORCE LAW ENFORCEMENT
3009 N. HWY 89 PRESCOTT, AZ 86301
TEL: (800) 367-5855 FAX: (928) 445-3468 www.proforceonline.com

QUOTATION

Department: Inyo County Sheriff's (CA)
Attention: Paul Baldwin
Phone #:

Date: March 28, 2014
Expiration Date: May 12, 2014
Email/FAX #: pbaldwin@inyocou

This Quote is Valid for 45 days. Call 800-367-5855 if Quote is pending at expiration date.

Signature	PO #

PLEASE READ ATTACHED:

"Taser International Warranty Terms and Conditions, Release and Limitation of Remedies" as this attachment is to be an integral part of the terms of this quote.

Please be aware that handling charges are not actual freight and are therefore subject to sales tax in California and Washington.

ProForce Law Enforcement agrees to defend, indemnify and hold harmless its customer from claims for personal injury or property damages, to the extent arising from the negligent acts or omissions of ProForce law Enforcement or its employees, agents or independent contractors.

THE SAFARILAND GROUP

QUOTATION

Date:	Quotation #
03/28/2014	005708

Safariland, LLC
13386 International Parkway
Jacksonville, FL 32218
Tel: 800.347.1200
www.safariland.com

PLEASE USE THE ABOVE QUOTATION NUMBER WHEN PLACING ORDERS

Customer Name:
COUNTY OF INYO
ATTN: SGT. PAUL BALDWIN
301 W. LINE ST
INDEPENDENCE, CA 93526-0620
US

Issued By:	Ship Via	Payment Terms	Freight Payment	Valid Until
Reneé Di Cini	FEDEX GROUND	Net 30	FRT QUOTE	06/28/2014

Ln #	Part Number	Quantity	Description	Unit Price	Ext. Price
1	P6-FSM3-MMRRR-A	3	SM01 FAV MK II ATACS Part ID: P6-FSM3-MMRRR-AYA (Protech) SM3 UN # : VEST	$2,230.00	$6,690.00
2	P6-A-ENHCOL-SM3-	3	SM01 ENHANCED COLLAR ATAC-S Part ID: P6-A-ENHCOL-SM3-MM-YA (Protech) SM3 UN # : ACCESSORY	$185.00	$555.00
3	P6-A-FAVTHRT-SM3	3	SM01 FAV MK II THROAT ATACS Part ID: P6-A-FAVTHRT-SM3-YA (Protech) SM3 UN # : ACCESSORY	$170.00	$510.00
4	P6-A-BCP-SM3-YA	3	SM01 BICEP SET 6X6 PLT PKT ATAC-S Part ID: P6-A-BCP-SM3-YA (Protech) SM3 H.S. # : ABA UN # : ACCESSORY	$460.00	$1,380.00
5	P6-A-ENHGRN-SM3-	3	SM01 ENHANCED GROIN ATAC-S Part ID: P6-A-ENHGRN-SM3-YA (Protech) SM3 UN # : ACCESSORY	$365.00	$1,095.00
6		3	Set of Six (6) Modular Tactical Pouches	$220.00	$660.00
7		1	City of Independence Sales Tax - 8.00%	$871.20	$871.20
8		1	Estimated Freight	$0.00	$0.00

Total Amount: $11,761.20

EXPORT CONTROLLED. These commodities, technology or software are controlled for export in accordance with the U.S. Export Administration Regulations. Diversion contrary to U.S. law is prohibited.

OFFICIAL SIGNATURE: Renée Di Cini
Customer Service Representative

GALLS The Authority in Public Safety Equipment and Apparel. www.galls.com

Because Duty Calls. QUARTERMASTER

Price Quotation

Quotation Date:	March 28, 2014
Quote Duration:	30 days
Reference #:	NA
Cust. Account #:	5291271

Company / Agency: Inyo County Sheriff Dept.

Customer / Contact: Sgt. Baldwin (760) 873-5025

Quartermaster Contact: Vernon Torgerson
800.834.7744 ext. 307
(562) 304-7336

Stock Number	Product Description	Quantity	Unit Price	Extended Total
	FAV MKII w/MOLLE SM01 IIIA RANGER GREEN	3	2100 $	6,300.00
	FAV MKII COLLAR DETACHABLE	3	160 $	480.00
	FAV MKII THROAT DETACHABLE	3	146.67 $	4,400.01
	FAV MKII BICEP DETACHABLE SHORT	3	240 $	720.00
	FAV MKII GROIN DETACHABLE	3	200 $	600.00
	MOLLE POUCHE SET (ANY 6)	3	146.67 $	440.01
	BALLISTIC PACKAGE SM01 IIA			

*Prices quoted are for quantities listed. Changes to quantities could affect your price +/-. Please contact your account manager for latest pricing updates. While most quotes are good for 30 days, please contact us for extensions.

*** Shipping cost at actuall freight*** TBD

Subtotal	$	12,940.02
S & H	$	-
Grand Total	$	12,940.02

Quote	3212014CAS3
Date	2/5/2014
Page	1/4
PO #	

9705 Loiret Blvd.
Lenexa, KS 66219

Customer
Inyo County Sheriff's Department
Andrew Marsh

Contact Info
760-878-0383
amarsh@inyocounty.us

End User
Inyo County Sheriff's Department

Billing Address
726 N Main
Lone Pine CA 93545

Shipping Address
726 N Main
Lone Pine CA 93545

Customer ID	Salesperson	Shipping Method	Payment Terms	Created By	Quote Valid
INYCA0	Ty McCartney		Net 30	Cody Swope	90 Days

Qty	Product	List Price	Discount	Item Total
30	FirstVu HD Complete Kit	$995.00	$75.00	$27,600.00 T

Notes:

Discount Total	$2250.00
Taxes	$0.00 2208
Freight	$200.00
Quote Total	$27,800.00

27,758

Thank you for your interest!

If you would like to place an order, please contact Digital Ally or your local rep.

TERMS OF SALE

Your purchase of goods from Digital Ally, Inc., a Nevada corporation (**"Digital Ally"**) will be governed by the following terms of sale ("Terms"). You will be referred to throughout these Terms as **"you"**.

1. **Exclusion of Other Terms; Entire Agreement.** Additional or different terms or conditions proposed by you (including any additional or different terms provided in a purchase order) will be void and of no effect unless specifically accepted in writing by Digital Ally. Digital Ally's sales invoice, these Terms, the warranty and any special conditions executed by you and Digital Ally (collectively, the **"Order"**) supersedes and cancels all prior communications between us, whether verbal or written, and constitutes the entire agreement between us unless modified in writing and signed by each of us.

2. **Payment.** Payment terms are cash on delivery, except where credit has been established and maintained to Digital Ally's satisfaction. If you have established credit, payment terms are net 30 days from date of shipment. Any invoice that you fail to pay when due will bear interest at the rate of 1-1/2% per month or the highest rate then permitted by law, whichever is less. You must also reimburse Digital Ally for its costs incurred (including internal administrative expenses and reasonable attorneys' fees) in the collection of your past due invoices.

3. **Security Interest.** Digital Ally retains a security interest in all goods delivered to you and all proceeds until paid in full. You agree, without further consideration, at any time to do or cause to be done, all acts, and to execute and deliver, all such documents as may reasonably requested in order to protect Digital Ally's security interest in the goods, including the filing of financing statements may deem necessary to perfect its security interest.

4. **Taxes.** In addition to the purchase price, you must pay any sales, excise or similar taxes applicable to the transaction, unless you provide Digital Ally with a valid tax exemption certificate. You must pay use taxes, if applicable to the transaction, directly to the appropriate taxing authority.

5. **Shipment.** Digital Ally will use commercially reasonable efforts to comply with your shipping instructions. You must prepay all transportation

and insurance charges prior to shipment. Unless otherwise stated by Digital Ally, all shipments will be F.O.B. (free onboard) Digital Ally's manufacturing facility in Lenexa, Kansas.

6. **Force Majeure.** Digital Ally will not be liable to you for any loss, damage, delay, or failure of delivery resulting from causes that are beyond Digital Ally's reasonable control. DIGITAL ALLY WILL NOT BE LIABLE FOR CONSEQUENTIAL DAMAGES FROM ANY DELAY WHATSOEVER.

7. **Limitation of Liability.** You assume all risk from your purchase and use of the goods. Neither you nor Digital Ally will be liable to the other for any consequential damages, punitive damages, special, incidental or exemplary damages suffered by the other in connection with its performance of its obligations under this Order. DIGITAL ALLY'S AGGREGATE LIABILITY UNDER THIS ORDER WILL NOT EXCEED AMOUNTS PAID BY YOU TO DIGITAL ALLY UNDER THIS ORDER.

8. **Warranty; Limitations on Remedies.** Digital Ally's warranty on the goods provided under the Order is set out in a separate statement, which sets forth the only warranty applicable to the goods sold under this Order. THAT WARRANTY IS GIVEN IN LIEU OF ALL OTHER WARRANTIES. THERE ARE NO WARRANTIES THAT EXTEND BEYOND DIGITAL ALLY'S WARRANTYSTATEMENT. ALL IMPLIED WARRANTIES ARE DISCLAIMED,NCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, NONINFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE, AND WARRANTIES IMPLIED FROM A COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE. YOUR SOLE AND EXCLUSIVE REMEDY FOR A WARRANTY CLAIM WILL BE THE REPAIR OR REPLACEMENT OF THE GOODS.

9. **Indemnity.** You will defend Digital Ally, its managers, agents, employees, successors and assigns, and will pay all damages, losses, costs and expenses, including reasonable attorney's fees, incurred by the indemnified party arising out of, or incidental to, your selection, purchase and use of the goods under this Order. This indemnification will survive the expiration or termination of this Order.

10. **Risk of Loss.** Risk of loss to goods purchased will pass to you at the earlier of the time the goods are (a) duly delivered to the carrier, or (b) duly tendered to you for delivery.

11. **Acceptance; Claims for Shortage or Error.** Delivered goods will be deemed accepted upon the earlier of your formal acceptance of the goods or the expiration of 30 days from receipt. If you discover upon initial inspection that (a) some or all of the goods are defective or (b) do not conform to Digital Ally's warranty, may be returned to Digital Ally for replacement or a refund of the purchase price. Digital Ally is not responsible for goods lost or damaged in transit. You are solely responsible for filing claims against the carrier for any loss or damage. Digital Ally will furnish all available information and give any other reasonable assistance requested to assist you in filing a claim. Claims for shortages in shipment not chargeable against the carrier will not be considered unless notice is given within 10 days from date of receipt.

12. **Compliance with Laws.** You will comply with all laws and regulations applicable to you, including those dealing with the purchase and distribution of the products purchased under this Agreement. You will further keep Digital Ally informed of any laws, regulations, governmental orders, or requirements, which affect the ordering, shipment, importation, sale, marketing, or distribution of the Products within your jurisdiction and will, in all cases, refrain from engaging in any activities or conduct, which would cause Digital Ally to be in violation of the laws of any jurisdiction. You agree at all times to comply with all United States laws or regulations, as they may exist from time to time, regarding export licenses or the control or regulation of exportation or re-exportation of products or technical data sold or supplied to you.

Without limiting the generality of the foregoing, you specifically agree not to resell any Products purchased under this Agreement to any party, if such a sale would constitute a violation of any laws or regulations of the United States. You represent and warrant that neither you, nor any of its directors or any of its members, managers, officers, employees, or agents is an official agent, or employee of any government or governmental agency or political party. You agree to promptly notify Digital Ally of the occurrence of any event, which would render the foregoing representation and warranty incorrect or misleading. In addition, you will at all times comply with all applicable laws of the United States concerning foreign corrupt practices or which in any manner prohibits the giving of anything of value to any official, agents or employee of any government, governmental agency, political party or any officer, employee, or agent thereof.

13. **Governing Law; Jurisdiction and Venue.** This Order and all disputes arising under this Order are exclusively subject to, governed by, and construed in accordance with the law of the State of Kansas, without regard to rules of conflicts of law. Any action relating to this Order must be brought in state or federal courts located in Johnson County, Kansas, and the parties hereby irrevocably consent to the exclusive jurisdiction of, and venue in such courts.

14. **Prevailing Party's Attorneys' Fees.** In the event of any litigation or arbitration related to this Order, the prevailing party will be entitled to recover from the non-prevailing party, the costs and expenses (including attorneys' fees) reasonably incurred by the prevailing party in connection therewith.

15. **Cancelled Orders and/or Returns.** All cancelled orders and/or product returns may be subject to a 20% restocking fee.

VuVault System Requirements

This is a quick reference guide to qualify on site machines for VuVault compatibility. These include specifications for minimum requirements and

recommended machines. Our minimum requirements are higher on VuVault versus VideoManager to avoid issues for now and future released features to the program. Computers that do not meet these requirements in many cases will work however we cannot guarantee stability or performance and will not support related issues.

Standalone Software (with or without wireless software)

Minimum Requirements

- Intel® I-Series Dual Core Processor (2.0Ghz or higher)
- 4GB RAM
- Windows 7 Professional Operating System (32 or 64-bit)
- 40GB Free Space (Boot Drive)
- Storage Drive (Qualify customer)
- DVD+/- RW Drive
- Intel® HD4000 chipset or comparable video card
- 100Mb Network Connection
- USB 2.0 CF/SD Card Reader

Recommended Specifications

- Intel® I-Series Quad Core Processor (2.0Ghz or higher)
- 8GB RAM
- Windows 7 Professional Operating System (64-bit)
- 40GB Free Space (Boot Drive)
- Storage Drive (Qualify Customer)
- DVD +/- RW Drive
- Nvidia® GeForce 8800GS or comparable video card
- Gigabit Network Connection
- SanDisk USB 2.0 CF/SD Card Reader

Server Software (with or without wireless software)

Minimum Requirements

- Intel® I-Series Dual Core Processor (2.4Ghz or higher)
- 4GB RAM
- Windows 7 Professional Operating System (32 or 64-bit) or Windows Server 2008
- 40GB Free Space (Boot Drive)
- Storage Drive (Qualify Customer) Local NTFS (no FAT32 removable drives or network drives)
- 100Mb Network Connection

Recommended Specifications

- Intel® I-Series Quad Core Processor (3.00Ghz or higher)
- 8GB RAM

- Windows Server 2008 R2
- 250GB Free Space (Boot Drive)
- Storage Drive (Qualify Customer) Local NTFS (no FAT32 removable drives or network drives)
- Gigabit Network Connection

Client/Viewer Software

Minimum Requirements

- Intel® i-Series Dual Core Processor (2.0Ghz or higher)
- 2GB RAM
- Windows XP Service Pack 3 or Windows 7 Pro (32 or 64-bit)
- 40GB Free Space (Boot Drive)
- DVD+/- RW
- Intel® HD4000 chipset or comparable video card
- USB 2.0 CF/SD Card Reader
- 100Mb Network Connection

Recommended Specifications

- Intel® i-Series Dual Core Processor (3.0Ghz or higher)
- 4GB RAM
- Windows 7 Professional (64-bit)
- 40GB Free Space (Boot Drive)
- DVD+/-RW
- Nvidia® GeForce 8800GS or comparable video card
- SanDisk USB 2.0 CF/SD Card Reader
- Gigabit Network Connection

Wireless Requirements and Recommendations

Minimum Requirements

- Dedicated Outdoor Business Class Wireless Access Point (802.11n & 2.4Ghz)
- 5 cars transferring simultaneously per Access Point
- WPA-PSK w/TKIP Encryption (WPA2-PSK w/AES preferred)
- DHCP Component (Can be integrated to AP or external)

Recommended Model Access Points

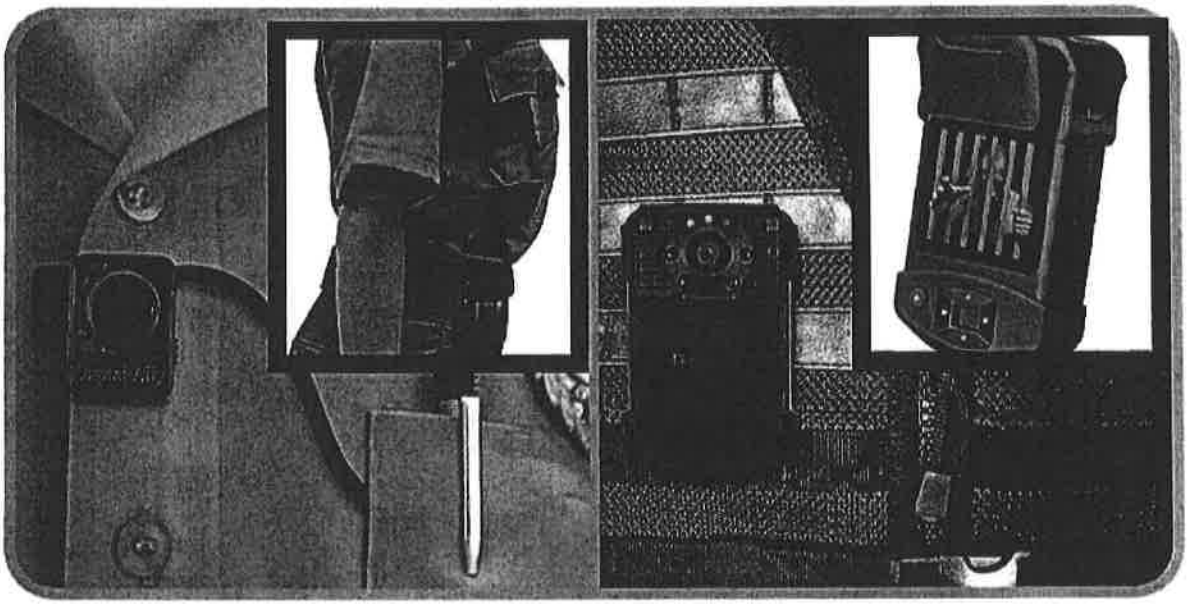
- DLINK DAP-3520
- Ubiquiti UniFi Outdoor
- Cisco Aironet 1300 Outdoor

MOBILE VIDEO SYSTEMS

OFFICER-WORN BODY CAMERAS

Select which Officer-Worn Video System you would like to learn more about:

FirstVu HD Lightweight, Compact Body Camera | FirstVu Single-Enclosure Body Cam With Monitor



Call Now

Call 1.800.440.4947
sales@digitalallyinc.com

Digital Ally © 2004-2013 Copyright. All Rights Reserved. Product & Software Specifications Subject to Change.

DVM-250 VEDR Video Event Data Recorder | Police Cameras: DVM-750 In-Car Video System, DVM-500Plus In-Car Law Enforcement Camera, DVM-100
Police In-Car Camera, DV-440Ultra Boat & Motorcycle Video Camera, Prisoner Transport Video Systems, Compare Law Enforcement Digital In-Car Video Systems
FirstVu Officer-Worn or Mounted Personal Body Camera, FirstVu HD Body Cams, Digital Video Flashlight Camera | **Police Video System Management | LIDAR Speed Guns | Accessories**
State Contracts | Testimonials | Digital Ally | Investor Relations | Links & Resources | Code of Ethics & Conduct | Contact Digital Ally | Customer Support

Sole Source Justification Form

Sole Source: Is awarded for a commodity or services, which can only be purchased from one supplier, usually because of its specific technological requirements, availability or unique patented manufacture. The lack of planning is not an overriding circumstance.

This is a sole source because:

☒ There is only one known source because:

- ☐ This is a sole provider of a licensed, copyrighted, or patented good or service.
- ☐ This is a sole provider of items compatible with existing equipment or systems.
- ☐ This is a sole provider of factory-authorized warranty service.
- ☒ This is a sole provider of goods or services that perform the intended function or meet the specialized needs of the County (Please detail in an attachment).

☐ One source is the only practical way to respond to overriding circumstances that make compliance with competitive procedures under the Authority's policies not in the best interest of the Authority (Please detail in an attachment).

Please attach a memorandum to explain why the goods or services are not available elsewhere, include names and phone numbers of firms contacted.

See attached letter from vendor.

- Other brands/manufacturers considered
- Other suppliers considered
- Other (i.e., emergency)

Describe the item or service, its function and the total cost estimate (if practical, separate labor and materials) in the space below or in a separate attached label: Description of Item or Service. **This quote is for FirstVu HD which is basically a body camera. Digital Ally is a sole source provider as it is their equipment that works with the VuVault.** The total cost is $27,758	
DEPARTMENT CONTACT PERSON & TITLE Lt. Marsh/Janis Odum	
DEPARTMENT NAME Sheriff's	PHONE 878.0326
REQUESTED SUPPLIER/CONSULTANT NAME Digital Ally	SUPPLIER CONTACT PERSON Ty McCartney
SUPPLIER ADDRESS 9705 Loiret Blvd. Lenexa, KS 66219	SUPPLIER CONTACT'S PHONE NUMBER 913.814.7774

The County's Purchasing Policy Manual Section III.(E), Exceptions to the Competitive Process/Sole Source and Section IV.(I), Sole Source Requests for Independent Contractors, describe when sole sourcing is permitted. By signing below, Requestor acknowledges that he/she has read and understands the County's policy on sole source procurements.

Janis L Odum — *Signature of Requestor*

4/4/14 — *Date*

President/CEO Approval

Date

Quote	412014CAS1
Date	4/1/2014
Page	1/4
PO #	

9705 Loiret Blvd.
Lenexa, KS 66219

Customer
Inyo County Sheriff's Department
Andrew Marsh

Contact Info
760-878-0383
amarsh@inyocounty.us

End User
Inyo County Sheriff's Department

Billing Address
726 N Main
Lone Pine CA 93545

Shipping Address
726 N Main
Lone Pine CA 93545

Customer ID	Salesperson	Shipping Method	Payment Terms	Created By	Quote Valid
INYCA0	Ty McCartney		Net 30	Cody Swope	90 Days

Qty	Product	List Price	Discount	Item Total
15	**DVM-800 with five years Advanced Exchange Warranty**	**$3,995.00**	**$625.00**	**$50,550.00**

Notes: Quote contains trade-in credit for DVM-500's at $625 off each unit.

Discount Total	$9375.00
Taxes	$4,044.00
Freight	$350.00
Quote Total	**$54,944.00**

Thank you for your interest!

If you would like to place an order, please contact Digital Ally or your local rep.

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2. **Payment.** Payment terms are cash on delivery, except where credit has been established and maintained to Digital Ally's satisfaction. If you have established credit, payment terms are net 30 days from date of shipment. Any invoice that you fail to pay when due will bear interest at the rate of 1-1/2% per month or the highest rate then permitted by law, whichever is less. You must also reimburse Digital Ally for its costs incurred (including internal administrative expenses and reasonable attorneys' fees) in the collection of your past due invoices.

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and insurance charges prior to shipment. Unless otherwise stated by Digital Ally, all shipments will be F.O.B. (free onboard) Digital Ally's manufacturing facility in Lenexa, Kansas.

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7. **Limitation of Liability.** You assume all risk from your purchase and use of the goods. Neither you nor Digital Ally will be liable to the other for any consequential damages, punitive damages, special, incidental or exemplary damages suffered by the other in connection with its performance of its obligations under this Order. DIGITAL ALLY'S AGGREGATE LIABILITY UNDER THIS ORDER WILL NOT EXCEED AMOUNTS PAID BY YOU TO DIGITAL ALLY UNDER THIS ORDER.

8. **Warranty; Limitations on Remedies.** Digital Ally's warranty on the goods provided under the Order is set out in a separate statement, which sets forth the only warranty applicable to the goods sold under this Order. THAT WARRANTY IS GIVEN IN LIEU OF ALL OTHER WARRANTIES. THERE ARE NO WARRANTIES THAT EXTEND BEYOND DIGITAL ALLY'S WARRANTYSTATEMENT. ALL IMPLIED WARRANTIES ARE DISCLAIMED,NCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, NONINFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE, AND WARRANTIES IMPLIED FROM A COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE. YOUR SOLE AND EXCLUSIVE REMEDY FOR A WARRANTY CLAIM WILL BE THE REPAIR OR REPLACEMENT OF THE GOODS.

9. **Indemnity.** You will defend Digital Ally, its managers, agents, employees, successors and assigns, and will pay all damages, losses, costs and expenses, including reasonable attorney's fees, incurred by the indemnified party arising out of, or incidental to, your selection, purchase and use of the goods under this Order. This indemnification will survive the expiration or termination of this Order.

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12. **Compliance with Laws.** You will comply with all laws and regulations applicable to you, including those dealing with the purchase and distribution of the products purchased under this Agreement. You will further keep Digital Ally informed of any laws, regulations, governmental orders, or requirements, which affect the ordering, shipment, importation, sale, marketing, or distribution of the Products within your jurisdiction and will, in all cases, refrain from engaging in any activities or conduct, which would cause Digital Ally to be in violation of the laws of any jurisdiction. You agree at all times to comply with all United States laws or regulations, as they may exist from time to time, regarding export licenses or the control or regulation of exportation or re-exportation of products or technical data sold or supplied to you.

Without limiting the generality of the foregoing, you specifically agree not to resell any Products purchased under this Agreement to any party, if such a sale would constitute a violation of any laws or regulations of the United States. You represent and warrant that neither you, nor any of its directors or any of its members, managers, officers, employees, or agents is an official agent, or employee of any government or governmental agency or political party. You agree to promptly notify Digital Ally of the occurrence of any event, which would render the foregoing representation and warranty incorrect or misleading. In addition, you will at all times comply with all applicable laws of the United States concerning foreign corrupt practices or which in any manner prohibits the giving of anything of value to any official, agents or employee of any government, governmental agency, political party or any officer, employee, or agent thereof.

13. **Governing Law; Jurisdiction and Venue.** This Order and all disputes arising under this Order are exclusively subject to, governed by, and construed in accordance with the law of the State of Kansas, without regard to rules of conflicts of law. Any action relating to this Order must be brought in state or federal courts located in Johnson County, Kansas, and the parties hereby irrevocably consent to the exclusive jurisdiction of, and venue in such courts.

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VuVault System Requirements

This is a quick reference guide to qualify on site machines for VuVault compatibility. These include specifications for minimum requirements and

recommended machines. Our minimum requirements are higher on VuVault versus VideoManager to avoid issues for now and future released features to the program. Computers that do not meet these requirements in many cases will work however we cannot guarantee stability or performance and will not support related issues.

Standalone Software (with or without wireless software)

Minimum Requirements

- Intel® i-Series Dual Core Processor (2.0Ghz or higher)
- 4GB RAM
- Windows 7 Professional Operating System (32 or 64-bit)
- 40GB Free Space (Boot Drive)
- Storage Drive (Qualify customer)
- DVD+/- RW Drive
- Intel® HD4000 chipset or comparable video card
- 100Mb Network Connection
- USB 2.0 CF/SD Card Reader

Recommended Specifications

- Intel® i-Series Quad Core Processor (2.0Ghz or higher)
- 8GB RAM
- Windows 7 Professional Operating System (64-bit)
- 40GB Free Space (Boot Drive)
- Storage Drive (Qualify Customer)
- DVD +/- RW Drive
- Nvidia® GeForce 8800GS or comparable video card
- Gigabit Network Connection
- SanDisk USB 2.0 CF/SD Card Reader

Server Software (with or without wireless software)

Minimum Requirements

- Intel® i-Series Dual Core Processor (2.4Ghz or higher)
- 4GB RAM
- Windows 7 Professional Operating System (32 or 64-bit) or Windows Server 2008
- 40GB Free Space (Boot Drive)
- Storage Drive (Qualify Customer) Local NTFS (no FAT32 removable drives or network drives)
- 100Mb Network Connection

Recommended Specifications

- Intel® i-Series Quad Core Processor (3.00Ghz or higher)
- 8GB RAM

Quote	412014CAS1
Date	4/1/2014
Page	4/4
PO #	

- Windows Server 2008 R2
- 250GB Free Space (Boot Drive)
- Storage Drive (Qualify Customer) Local NTFS (no FAT32 removable drives or network drives)
- Gigabit Network Connection

Client/Viewer Software

Minimum Requirements

- Intel® I-Series Dual Core Processor (2.0Ghz or higher)
- 2GB RAM
- Windows XP Service Pack 3 or Windows 7 Pro (32 or 64-bit)
- 40GB Free Space (Boot Drive)
- DVD+/- RW
- Intel® HD4000 chipset or comparable video card
- USB 2.0 CF/SD Card Reader
- 100Mb Network Connection

Recommended Specifications

- Intel® I-Series Dual Core Processor (3.0Ghz or higher)
- 4GB RAM
- Windows 7 Professional (64-bit)
- 40GB Free Space (Boot Drive)
- DVD+/-RW
- Nvidia® GeForce 8800GS or comparable video card
- SanDisk USB 2.0 CF/SD Card Reader
- Gigabit Network Connection

Wireless Requirements and Recommendations

Minimum Requirements

- Dedicated Outdoor Business Class Wireless Access Point (802.11n & 2.4Ghz)
- 5 cars transferring simultaneously per Access Point
- WPA-PSK w/TKIP Encryption (WPA2-PSK w/AES preferred)
- DHCP Component (Can be integrated to AP or external)

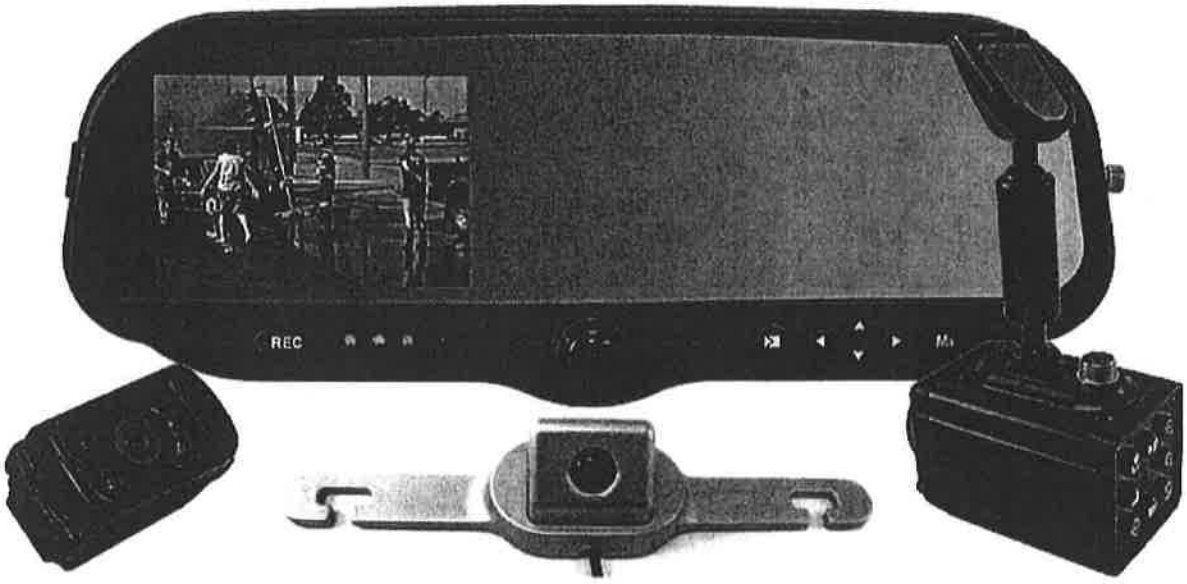
Recommended Model Access Points

- DLINK DAP-3520
- Ubiquiti UniFi Outdoor
- Cisco Aironet 1300 Outdoor

DIGITAL IN-CAR VIDEO

FEATURE-RICH MOBILE VIDEO UNDER $3500

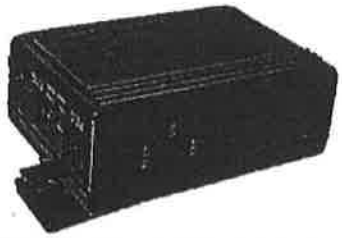
DVM-800 DIGITAL VIDEO SYSTEM INTEGRATED INTO A REAR VIEW MIRROR



FREE GRANT ASSISTANCE FOR THIS PRODUCT

POLICE | EMS | FIRE

Request free assistance locating and obtaining in -car video system grants. Grant writing services also available at a discounted rate.



2.4GHz Wireless Mic with Remote Record Activation Trigger.

The Wireless Mic Charging Cradle features an integrated wireless mic antenna as well as wired backseat mic input

Share |

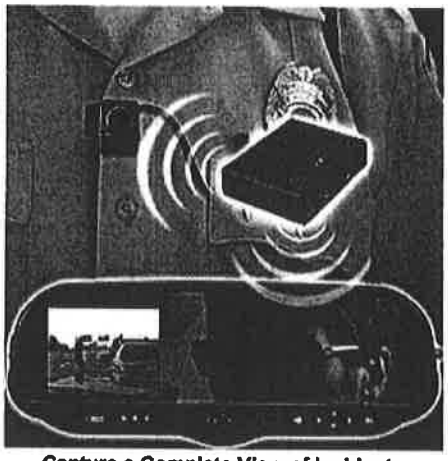
The DVM-800 is a feature-rich in-car video system starting at *under $3500* for the complete system, or under $4000 with a 5-year warranty! (5 year warranty available to U.S. customers only.) Advancements in technology and components have allowed us to price this system at a ***minimum of $1,500 less*** than comparable video systems, and it can even be **discounted by trading in your existing in-car video system.** If you ever want to upgrade to a new model in the future, you can also opt for Digital Ally to buy the system back using their **customer loyalty credit "guaranteed buyback program."** The DVM-800 features:

- 4 Cameras Included (Up to 8 Max)
- Simultaneous Dual-Camera Recording with Customizable Camera-Specific Automatic Recording Triggers and Enhanced G-Force Sensor Control
- Enhanced D1 720x480 Resolution
- Pre-Event Recording to Capture Events that Occurred Before Starting a Recording
- Records a Continuous Loop as well as Individual Incidents
- GPS with Interactive Back-Office Mapping
- Detailed Metadata & Mark Button to Tag Important Locations or Events
- Automatic Reverse/Back-Up Camera Display Option
- Integrated Monitor (Invisible When Not In Use)
- Up to 7 Different Audio Sources
- Integrated Wireless Download & 64GB Vibration / Environment-Proof Solid State Memory

- Full Remote System Configuration, Setting Control & Updating Capabilities
- Low Power Use & Internal Battery Backup
- Advance Exchange Replacement System if Warranty Repair is Ever Needed
- Powerful Back Office Software Options & More!

Achieve higher quality recordings without the file size of HD with the DVM-800's enhanced 720 pixel codec and customizable quality settings. The system will also provide **Evidence Capture Assurance** by recording a constant loop as well as individual incidents in case any additional evidence discovery is ever needed after the fact, as well as pre-event recording, which retains up to 30 sec. of footage before a recording was triggered, as part of the incident recordings.

See more without recording more by using up to 8 cameras while only recording 2 of them at any given time. Each camera can be uniquely triggered, thereby minimizing storage space, transfer time and officer distraction while optimizing review. For instance, you can use a back-up camera to automatically record and see behind you when you go into reverse; the back door can trigger a perfect view of placing a suspect into the backseat that isn't limited to the interior cab of the vehicle; the interior cab view, which shows both the back and front seats, could be triggered when hitting the brakes hard; the vehicle being struck or activating the lightbar can capture road views; and so forth. This also allows recording in and improved visibility around larger vehicles, such as swat or other armored trucks or prisoner transportation vans and buses.



Capture a Complete View of Incidents Automatically start your FirstVu HD officer-worn video system simultaneously with your DVM-800 using VuLink to capture video &/or audio while away from the vehicle then link the recordings in your VuVault management software.

The advanced, intelligent G-Force sensor also does more than simply detect impacts to trigger recordings. It measures forces on the X, Y and Z axis (all directions) to be able to measure acceleration, braking, cornering and even road condition to see what factors contributed to an accident.

Advanced wireless management allows remote setup, configuration and updating of your systems. Manage users and user groups or rapid share recordings across multiple locations, cities or even nations with the VuVault management software.

CONTACT US TO PURCHASE OR DEMO

RECEIVE UPDATES & SPECIAL OFFERS ON THIS PRODUCT

COMPARE DVM MODELS | BROCHURES | FUNDING OPTIONS

POWER & BENEFITS OF VIDEO | DESIGNED TO BE TOUGH

Call Now

Call 1.800.440.4947
sales@digitalallyinc.com

Digital Ally © 2004-2013 Copyright. All Rights Reserved. Product & Software Specifications Subject to Change.

DVM-250 VEDR Video Event Data Recorder | Police Cameras: DVM-750 In-Car Video System, DVM-500Plus In-Car Law Enforcement Camera, DVM-100
Police In-Car Camera, DV-440Ultra Boat & Motorcycle Video Camera, Prisoner Transport Video Systems, Compare Law Enforcement Digital In-Car Video Systems
FirstVu Officer-Worn or Mounted Personal Body Camera, FirstVu HD Body Cams, Digital Video Flashlight Camera | **Police Video System Management | LIDAR Speed Guns | Accessories**
State Contracts | Testimonials | Digital Ally | Investor Relations | Links & Resources | Code of Ethics & Conduct | Contact Digital Ally | Customer Support

Sole Source Justification Form

Sole Source: Is awarded for a commodity or services, which can only be purchased from one supplier, usually because of its specific technological requirements, availability or unique patented manufacture. The lack of planning is not an overriding circumstance.

This is a sole source because:

☒ There is only one known source because:

- ☐ This is a sole provider of a licensed, copyrighted, or patented good or service.
- ☐ This is a sole provider of items compatible with existing equipment or systems.
- ☐ This is a sole provider of factory-authorized warranty service.
- ☒ This is a sole provider of goods or services that perform the intended function or meet the specialized needs of the County (Please detail in an attachment).

☐ One source is the only practical way to respond to overriding circumstances that make compliance with competitive procedures under the Authority's policies not in the best interest of the Authority (Please detail in an attachment).

Please attach a memorandum to explain why the goods or services are not available elsewhere, include names and phone numbers of firms contacted.

See attached letter from vendor.

- Other brands/manufacturers considered
- Other suppliers considered
- Other (i.e., emergency)

Describe the item or service, its function and the total cost estimate (if practical, separate labor and materials) in the space below or in a separate attached label: Description of Item or Service. **This quote is for DVM 800 rear view mirror car cameras. Digital Ally is a sole source provider as it is their equipment that works with the VuVault system.** The total cost is $54,944.00	
DEPARTMENT CONTACT PERSON & TITLE Lt. Marsh/Janis Odum	
DEPARTMENT NAME Sheriff's	PHONE 878.0326
REQUESTED SUPPLIER/CONSULTANT NAME Digital Ally	SUPPLIER CONTACT PERSON Ty McCartney
SUPPLIER ADDRESS 9705 Loiret Blvd. Lenexa, KS 66219	SUPPLIER CONTACT'S PHONE NUMBER 913.814.7774

The County's Purchasing Policy Manual Section III.(E), Exceptions to the Competitive Process/Sole Source and Section IV.(I), Sole Source Requests for Independent Contractors, describe when sole sourcing is permitted. By signing below, Requestor acknowledges that he/she has read and understands the County's policy on sole source procurements.

Janis L Odum — 4/4/14

Signature of Requestor — *Date*

President/CEO Approval — *Date*

MED-ENG, LLC.
103 Tulloch Drive
Ogdensburg, NY 13669, USA
Toll Free: 1-855-633-3649
Tel: 1-613-482-8835
Fax: 1-613-482-4991
med-engsales@safariland.com
www.med-eng.comwww.med-eng.com

QUOTATION

Quote ID	Customer ID	GSA Contract No.
QUO-03922-F7V7T9	4001005	GS-07F-0207M

Customer:	Inyo County Sheriff's Departme
Contact:	Joshua Nicholson

Ship To: Inyo County Sheriff's Departme
550 South Clay Street
PO BOX "S" Independence
CA UNITED STATES
93526

Date	Payment Terms	Delivery *	Shipping Terms	Expiry Date	Inco term	End user	Currency
3/31/14	01 - Net 30	12 Wks A.R.O.	06 - Road	2/21/14	DDP - DESTINATION	INYO COUNTY	US Dollar

Item No.	Stock Code	Legacy Code	Quantity	Unit	Unit Price	Unit Discount	Total Price
1.	1004413	4000-0091-3	1.00	EA	$13,304.00	$0.00	$13,304.00

****
8% CA Sales Tax included, we do not charge for Sales Tax
****

SUIT EOD 9 ENHANCED MOBILITY OLIVE DRAB MEDIUM
The EOD 9 Suit has been engineered to provide superior protection against the threats of an explosive blast: overpressure, fragmentation, impact and heat. The most ergonomic full coverage ensemble in the industry today, the EOD 9 Suit has achieved an unprecedented optimal balance between protection and flexibility through the meticulous distribution of protective materials over the body. A sliding groin plate easily retracts to allow for crouching, bending and climbing movements. The EOD 9 Suit has been designed to provide maximum protection, while still permitting a high degree of flexibility and comfort to facilitate the conduct of operational duties.

The EOD 9 Suit (standard configuration) includes: Jacket with Universal Patchcord, Integrated Groin Protector (IGP), Trousers

*** Lead time subject to change due to product availability at time of order**

MED-ENG, LLC will not be bound by any additional terms and conditions, whether contained in a purchase order or other document, unless expressly agreed to by MED-ENG, LLC in writing or within our order acknowledgement. Delivery of product is subject to raw material availability. MED-ENG, LLC Terms and Conditions of Sale apply. These terms can be viewed at www.med-eng.com

MED-ENG, LLC.
103 Tulloch Drive
Ogdensburg, NY 13669, USA
Toll Free: 1-855-633-3649
Tel: 1-613-482-8835
Fax: 1-613-482-4991
med-engsales@safariland.com
www.med-eng.comwww.med-eng.com

QUOTATION

with Back Protector, Detachable Boot Covers, Grounding Strap, Carry Bag, Steel Hanger (for drying only), and User Manual & CD

Fits: Height: 173 -188 cm (5'8"- 6'2"),

NSN: 8470-20-001-9423

2.	1002928	MA005130	1.00	EA	$1,684.00	$0.00	$1,684.00

VISOR KIT EOD 9 BA
Breathing Apparatus (BA) Package:

-BA Visor with Wiper and Built-In Searchlights, Visor Cover
-Throat Microphone
-Throat Strap
-Anti-Scatch/Anti-Fog Visor Applicques (5)

NSN: 8470-20-002-2183

3.	1004797	MA005118-01	1.00	EA	$8,030.00	$0.00	$8,030.00

HELMET EOD 9 OLIVE DRAB
The EOD 9 Helmet Platform includes the following systems: Extensive Adjustible Comfort Liner System, 4 Point Retention System, Onboard Power Supply, Shielded Power Supply (SPS), Remote Control Module, Communications Systems Compatibility, and EOD and optional Breathing Apparatus (BA) Visor Compatibility (both visors feature built-in searchlights).

NSN: 8470-20-001-9432

4.	8% Sales Tax	$1841.44

Total Gross Amount:	**$23,018.00**
Total Discount:	**$0.00**
Total Freight Amount:	
Total Misc Amount	**$0.00**
Total Sales Tax:	**$1841.44**
Total Amount:	**$24,859.44**

*** Lead time subject to change due to product availability at time of order**

MED-ENG, LLC will not be bound by any additional terms and conditions, whether contained in a purchase order or other document, unless expressly agreed to by MED-ENG, LLC in writing or within our order acknowledgement. Delivery of product is subject to raw material availability. MED-ENG, LLC Terms and Conditions of Sale apply. These terms can be viewed at www.med-eng.com

Sole Source Justification Form

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This is a sole source because:

☒ There is only one known source because:

- ☐ This is a sole provider of a licensed, copyrighted, or patented good or service.
- ☐ This is a sole provider of items compatible with existing equipment or systems.
- ☐ This is a sole provider of factory-authorized warranty service.
- ☒ This is a sole provider of goods or services that perform the intended function or meet the specialized needs of the County (Please detail in an attachment).

☐ One source is the only practical way to respond to overriding circumstances that make compliance with competitive procedures under the Authority's policies not in the best interest of the Authority (Please detail in an attachment).

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See attached letter from vendor.

- Other brands/manufacturers considered
- Other suppliers considered
- Other (i.e., emergency)

Describe the item or service, its function and the total cost estimate (if practical, separate labor and materials) in the space below or in a separate attached label: Description of Item or Service. **This quote is for an EOD 9 Enhanced Mobility Explosive suit. It is for our explosive deputy's use and safety. This is also under GSA Contract No. GS-07F-0207M. See attached sole source statement and memo from our demolition Deputy.** The total cost is $24,859.44	
DEPARTMENT CONTACT PERSON & TITLE U/Sheriff Keith Hardcastle/Janis Odum	
DEPARTMENT NAME Sheriff's	PHONE 878.0327/0326
REQUESTED SUPPLIER/CONSULTANT NAME Med-Eng	SUPPLIER CONTACT PERSON Paul Romano
SUPPLIER ADDRESS 103 Tulloch Drive Ogdensburg, NY 13669	SUPPLIER CONTACT'S PHONE NUMBER Toll free 855.633.3649

The County's Purchasing Policy Manual Section III.(E), Exceptions to the Competitive Process/Sole Source and Section IV.(I), Sole Source Requests for Independent Contractors, describe when sole sourcing is permitted. By signing below, Requestor acknowledges that he/she has read and understands the County's policy on sole source procurements.

Janis L Odum — 4/4/14

Signature of Requestor — *Date*

President/CEO Approval — *Date*

Office of the
SHERIFF
INYO COUNTY, CA

WILLIAM R. LUTZE
Sheriff

Keith Hardcastle
Undersheriff

"A Professional Service Agency"

MEMORANDUM

Date: March 28th, 2014
To: Sheriff
From: Nicholson
Re: Bomb Suit

Since I have been with the Inyo County Sheriff's Department, I have spoken with multiple law enforcement agencies, including San Bernardino Sheriff (SBSO), Riverside Sheriff (RSO), Orange County Sheriff (OCSD), and Federal Bureau of Investigation (FBI), in reference to bomb squads and the used for accredited bomb squads. All the above mentioned agencies use The Med-Eng EOD (Explosive Ordnance Disposal) Bomb Suit and Helmet.

Today, I spoke to Sergeant Todd Cole of the San Bernardino Sheriff's Office Bomb Squad and he told me the SBSO and the leading agencies with bomb squads use the Med-Eng EOD 9 Bomb Suit for the following reasons:

- The FBI is the accrediting agency for all bomb squads
- The FBI conducts all their training with the EOD 9 Bomb Suit
- The EOD 9 bomb suit and the EOD 8 bomb suit have been used for over fifteen years
- Any current competing manufacturers do not have the documentation, testing, or reputation that the Med-Eng EOD suits have
- The EOD 9 bomb suit has an extensive shelf life
- Med-Eng has been utilized by California Bomb Squads for over 15 years

103 Tulloch Drive
Ogdensburg, NY 13669 USA
315-713-0130

MED-ENG

October 2, 2013

SOLE SOURCE VENDOR STATEMENT

This letter is to certify that Med-Eng, LLC ("Med-Eng") (formerly "Allen-Vanguard") is the manufacturer and sole supplier for our EOD/IEDD Protective Equipment in North America. This equipment includes the EOD 9 Bomb Suit and Helmet and the TAC 6 Protective ensemble.

In September 2004 the EOD 9 ensemble was introduced. The EOD 9 ensemble provides the next generation of modular protection and operational flexibility for EOD and CBRNE missions. The EOD 9 helmet features interchangeable visors, standard and BA (Breathing Apparatus). The optional BA visor accommodates various respirators and has a remote control module that mounts on the right or left arm.

The TAC 6 uses modular and scalable components to enable users to very easily and quickly reconfigure their protection for use in a wide range of missions. Each protective item is ergonomically designed to allow for a full range of motion and greatly reduce the strain experienced by EOD and Tactical First Responders.

OTHER ACCESSORIES:

All Med-Eng suits are compatible with Med-Eng Body Cooling Systems, such as the BCS4. In the event of a CBRNE mission requiring the EOD 9, it is recommended that the CPU (chemical protective undergarment) be worn, as stipulated by a response unit's own operating procedures, with the EOD 9 and SRS 5 protective ensembles. Additionally, Med-Eng offers a Hard Wire communication system for EOD/IEDD Explosive Protection Systems. The HW-300 communication system should reduce the risks of inducing radio frequency (FR) signals into an improvised explosive device (IED).

REMOTE HANDLING TOOLS:

Remote handling equipment and tools that complement robotic vehicles or that may be used independently in a stand-alone configuration are available from Med-Eng, allowing the user to maintain minimum safety distances from a suspected device.

Remote handling tools, including all Hook and Line kits such as the HAL General Service Kits (GS& GS Lite), the HAL Vehicle and Building Kits (VK & BK), the HAL Access Kit (AK), the HAL Tactical Kit, the TM-600 Robotic Manipulator, and EDU-TAC-5000 Shield have aided in minimizing human exposure to an explosive device. The HAL GS Kits feature new or redesigned components designed to increase functionality and operational efficiency.

Included along with remote handling tools are Med-Eng's line of demolition tools, including the Remote Firing Initiator (RFI A, RFI B, and RFI C), the DX10-U and Med-Eng's line of crimpers and cutters.

103 Tulloch Drive
Ogdensburg, NY 13669 USA
315-713-0130

MED·ENG

Med-Eng offers a limited lifetime warranty on its Hook and Line (HAL) products; a one (1) year limited warranty on all other remote handling and demolition tools, and a limited two (2) year manufacturer's warranty on bomb suits and other accessories. All service repairs are performed at either our facility in Pembroke, Ontario, Canada or Ogdensburg, NY, USA, by authorized Med-Eng technicians.

Sincerely,

Paul Romano
Product Line Director
Med-Eng, LLC

2400 St. Laurent Boulevard
Ottawa, ON K1G 6C4
Canada
1-613-482-8835

MED-ENG

Inyo County Sheriff's
Department
550 South Clay Street
PO BOX "S" Independence
CA UNITED STATES
93526
Atten: Janice Odum

Dear Janice,

The Med-Eng EOD-9 Suit and Helmet system is the most advanced EOD/IEDD protective ensemble ever designed. This ensemble is proprietary to Med-Eng, LLC. The ensemble represents significant increases in protection against rapidly evolving IED threats, and extensively supported with independent third scientific testing and evaluation (available to qualified parties upon request).

The EOD-9 ensemble utilizes the latest innovations in materials and manufacturing technologies. The system capitalizes on our many years of laboratory and field testing to provide the highest level of operator protection, coupled with a high degree of mobility and flexibility.

We can confirm that the Med Eng Blast Protective Ensembles comply with *Section 7,1. BOMB SQUAD REQUIRED SAFETY EQUIPMENT* as indicated in the *National Guidelines for Bomb Technicians (Rev 4, 2006)*, published by the US, Department of Justice, Federal Bureau of Investigation and US Bomb Data Center.

The US Federal Government will not permit US Federal Law Enforcement or Military personnel to endorse products from any specific manufacturer. We are permitted to disclose the following general information.

1) Every accredited US Police Explosive Disposal Unit (estimated 470 individual Local Law Enforcement agencies) uses Med-Eng protective ensembles.

2) Med-Eng Explosive Protective Ensembles are in exclusive use by all major US Law Enforcement Agencies directly involved in EOD/IEDD.

3) Med-Eng Systems protective ensembles and equipment are in virtually exclusive use at US Law Enforcement EOD/IEDD Training Schools

4) Med-Eng Systems ensembles are the primary bomb suit selected and deployed by the US Military under the US Army ABS-LPU program.

Please let me know if we can be of any further assistance to you or any member of your team.

Lenore Mitchell

Lenore Mitchell
Lenore.mitchell@safariland.com
Direct: (613) 288-5438
Fax: (613) 482-5152
Reception: (613) 482-8835

For Clerk's Use Only:
AGENDA NUMBER

31

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

☒ Consent ☐ Departmental ☐ Correspondence Action ☐ Public Hearing

☐ Scheduled Time for ☐ Closed Session ☐ Informational

FROM: **Motor Pool**

FOR THE BOARD MEETING OF: April 15, 2014

SUBJECT: **Donation of Inyo County Surplus Vehicle**

DEPARTMENTAL RECOMMENDATION:

Request that your Board donate a surplus 2005 Ford Expedition, asset number 8390, license number 5LGW991 to the Olancha/Cartago Fire Department. (4/5's vote required)

SUMMARY DISCUSSION:

The Sheriff's Department has been working with the Olancha/Cartago Fire Department on the request that a County owned Ford Expedition, which has 179,954 miles, has been declared surplus and is currently inoperable due to major mechanical issues be donated to the Olancha/Cartago Fire Department. The Olancha/Cartago Fire Department has expressed interest in using the vehicle as an Advanced Life Support response vehicle. The Olancha/Cartago Fire Department has inspected the vehicle and has agreed to receive the vehicle in as-is condition as they have the ability to make the necessary repairs to make the vehicle operable. On April 1, 2014 your Board declared several Inyo County vehicles as surplus including one (1) 2005 Ford Expedition, asset number 8390, license number 5LGW991. Government Code § 25365 authorizes your Board, by 4/5's vote, to donate personal property to special districts.

ALTERNATIVES:

The vehicle has been surplused by the County and is scheduled to be sold. It is difficult to estimate the amount the vehicle will sell for, but probably not for more than a few hundred dollars. Your Board could choose not to donate the vehicle and sell it with the other surplus vehicles.

OTHER AGENCY INVOLVEMENT:

Inyo County Sheriff and Olancha/Cartago Fire Department.

FINANCING:

Inyo County Motor Pool would receive the proceeds if the vehicle were sold at auction.

For Clerk's Use Only:
AGENDA NUMBER
33

AGENDA REQUEST FORM

BOARD OF SUPERVISORS
COUNTY OF INYO

☐ Consent ☐ Departmental ☐ Correspondence Action ☐ Public Hearing
☒ Scheduled Time for ☐ Closed Session ☐ Informational

FROM: Inyo County Planning Department

FOR THE BOARD MEETING OF: April 15, 2014

SUBJECT: Inyo National Forest Plan Update/Revision

RECOMMENDATION: Receive a presentation from staff about coordination with Forest Service staff regarding the Inyo National Forest Plan Update/Revision and provide input, and (2) Review and authorize the Chair to sign a Memorandum of Understanding in regards thereto.

SUMMARY DISCUSSION: The Inyo National Forest (INF) is working on updating the INF Plan.[1] Staff is working with Forest Service staff in developing the Plan, and will report on recent activities. Input from the Board is requested to guide staff in future coordination efforts with Forest Service staff.

County staff has been working with INF staff for several years to develop an agreement to participate in the Plan, resulting in the Memorandum of Understanding (MOU) in Attachment 1. Staff has briefed the Board previously on numerous occasions regarding specific issues related to the agreement and has worked with INF staff to incorporate the Board's input. The Board reviewed a previous version of the agreement on March 26, 2013; subsequently, Forest Service staff reformatted the agreement and arranged for further internal review and modifications in consultation with its Office of General Counsel and the Washington Office.

County staff is generally supportive of the revised agreement as it incorporates the basic concepts of the previous agreement. However, staff had recommended that the MOU include the County's coordination definitions in Section 2 of the body of the agreement, rather than in Appendix 1, because it is in that section that the MOU recites the Forest Service's coordination responsibilities. However, the Forest Service declined to make the modification, and County staff is bringing the MOU forward for the Board's direction.

The draft agreement is an MOU, rather than a Memorandum of Agreement (MOA) per the Board's previous request. Staff believes that this issue is more of a matter of semantics and does not believe it is a barrier to proceeding.

Agreement Highlights

The following presents highlights of the agreement:

1. Designates the County as a Cooperating Agency with special expertise.
2. Provides a framework for cooperation and coordination, although the County's coordination definition is in an appendix rather than in the body of the MOU.
3. Provides for County recommendations on the scope, scale, timing, methods, and forums for public involvement.

---

[1] Refer to http://inyoplanning.org/InyoNationalForest.htm for more information about the County's participation in the Plan Update/Revision.

4. Specifies frequent meetings between INF staff and the Board of Supervisors and County staff.
5. Includes a specific scope of work and schedule.
6. Details information exchange, incorporation of the County's input, and resolving disagreements.
7. Addresses confidential information and public records requests.
8. Protects the County's rights to participate in Plan development outside of the MOU, including the right to object to the Plan decision.

Regional Memorandum of Agreement

The draft MOU for the Plan Update incorporates the concepts of the regional MOA between the Bureau of Land Management, US Forest Service, California State Association of Counties, and Regional Council of Rural Counties (Attachment 2). In summary, the proposed MOU addresses the following, which are also included in the regional MOA:

1. Facilitating early and frequent communication between the agencies to foster a more productive partnership that results in positive land management decisions.
2. Including the County in the Plan Update process.
3. Working to ensure that the INF and other Forest Service staff understand the County's General Plan and its other adopted policies.
4. Incorporates frequent meetings between INF staff and the Board of Supervisors and County staff throughout the Update process.
5. Requires the INF's evaluation and incorporation of the County's input, including presenting the County's point of view in the Plan and/or Environmental Impact Statement if it disagrees as well as why it disagrees.

ALTERNATIVES: The Board may consider requesting modifications to the MOU or rejecting the MOU.

OTHER AGENCY INVOLVEMENT: Department of Agriculture, U.S. Forest Service; Mono, Fresno, Madera, and Tuolumne counties; other interested persons and organizations.

FINANCING: General fund resources are utilized to monitor planning work in the Forest. Resources for Willdan's assistance with the effort are funded by operating transfer from the Geothermal Royalties fund.

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS *(Must be reviewed and approved by county counsel prior to submission to the board clerk.)*
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS (M*ust be reviewed and approved by the auditor-controller prior to submission to the board clerk.)*
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS (Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received)

_____ Date: 4-9-14

Attachments:

1. Draft MOA
2. Regional MOA

FS Agreement No. ___ - ___ - ___
Cooperator Agreement No. _____

MEMORANDUM OF UNDERSTANDING
Between The

COUNTY OF INYO
And The

USDA, FOREST SERVICE

This MEMORANDUM OF UNDERSTANDING (MOU) is hereby made and entered into by and between the County of Inyo, California, hereinafter referred to as "County," and the USDA, Forest Service, hereinafter referred to as the "Forest Service."

Background: The Forest Service is revising the Land and Resource Management Plans (Forest Plans) for the Sequoia, Sierra and Inyo National Forests in accordance with the 2012 National Forest System Land Management Planning Rule (36 CFR 219; 2012 Rule). The County has requested, and the Forest Service has agreed to grant, cooperating agency status with respect to the development of the Revised Forest Plan for the Inyo National Forest (Revised Plan) pursuant to 40 CFR 1501.6.

Title: Revision of the Inyo National Forest Land and Resource Management Plan

I. PURPOSE:

The purpose of this MOU is to define the relationship and duties of the Forest Service and the County, as a Cooperating Agency, in accordance with the following provisions.

II. STATEMENT OF MUTUAL BENEFIT AND INTERESTS:

In harmony with the goals of the National Environmental Policy Act (NEPA), participation by cooperating agencies promotes efficiency, cooperation, and disclosure to the public of all relevant information (Statement Clarifying Cooperating and Joint Lead Agency Provisions, US Forest Service, Bureau of Land Management, and National Park Service, 9/2/1998). By cooperating in the development of the Revised Plan, the Forest Service and County can better integrate decisionmaking within their respective jurisdictions.

To revise the Forest Plans, the Forest Service must prepare an Environmental Impact Statement (EIS) that complies with the National Environmental Policy Act (NEPA) and other applicable statutes and regulations such the Endangered Species Act, National Historic Preservation Act, etc.

In September 2013, Regional Forester Randy Moore decided to prepare one EIS for the revision of the Forest Plans for the Inyo, Sierra, and Sequoia National Forests. The preparation of the EIS will be led by the Regional Office, under the direction of the Regional Planning Team Leader. A team of interdisciplinary resource specialists, known as the Regional Planning Team (RPT), will

be assigned to prepare the EIS and Revised Plans for the Inyo, Sierra, and Sequoia National Forests.

The Forest Supervisor of the Inyo National Forest is the responsible official for development and approval of the Revised Plan, and has full authority to manage the preparation of the Revised Plan in accordance with the 2012 Rule and other applicable laws and regulations. Under the provisions of the 2012 Planning Rule (36 CFR 219) and the Council for Environmental Quality's Regulations for Implementing NEPA (40 CFR Parts 1500-1508), the responsible official shall:

- "Where appropriate, encourage States, counties, and other local governments to seek cooperating agency status in the NEPA process for development, amendment, or revision of a plan." 36 CFR 219.4(a)(1)(iv)
- "…[C]oordinate land management planning with the equivalent and related planning efforts of federally recognized Indian Tribes, Alaska Native Corporations, other Federal agencies, and State and local governments." (36 CFR 219.4(b)).
- "…[R]eview the planning and land use policies of federally recognized Indian Tribes (43 U.S.C. 1712(b)), Alaska Native Corporations, other Federal agencies, and State and local governments, where relevant to the plan area. The results of this review shall be displayed in the environmental impact statement (EIS) for the plan (40 CFR 1502.16(c), 1506.2). The review shall include consideration of:
    - The objectives of federally recognized Indian Tribes, Alaska Native Corporations, other Federal agencies, and State and local governments, as expressed in their plans and policies;
    - The compatibility and interrelated impacts of these plans and policies;
    - Opportunities for the plan to address the impacts identified or contribute to joint objectives; and
    - Opportunities to resolve or reduce conflicts, within the context of developing the plan's desired conditions or objectives." (36 CFR 219.4(b)(2))

In consideration of the above premises, the parties agree as follows:

III. THE COUNTY SHALL:

A. Serve as a cooperating agency with special expertise (Appendix 1) relevant to the preparation of the EIS for the Revised Plan for the Inyo National Forest, with the rights and duties of a cooperating agency as set forth in this MOU and the CEQ regulations at 40 CFR 1501.6.

B. Within timeframes established by the Forest Service, provide input on the development of the EIS for the Revised Plan specific to the County's areas of special expertise. This may include, but is not limited to, the following:

   i. Assessment of resource conditions and trends. (36 CFR 219.5, 219.6)

   ii. Identification of the preliminary need to change the plan based on the assessment. (36 CFR 219.5(a)(2))

iii. Best available scientific information as related to the County's areas of special expertise. (36 CFR 219.3)

iv. Development of required and optional plan components (36 CFR 219.7(e)(1) and (2))

v. Responsible official's review of the County's planning and land use policies. (36 CFR 219.4(b)(2))

C. Complete review and analysis of preliminary Draft EIS and Revised Plan documents, or portions thereof, relevant to the County's areas of special expertise. The length of the County's review period(s) will vary based on Forest Service timing constraints and when possible, a minimum of two weeks will be provided. The County may request additional review time. If Forest Service timelines do not accommodate a longer review period, the County will attempt to respond within the Forest Service timeframe.

D. The County will complete a review of its planning and land use policies that it considers relevant to the Revised Plan (Section V, paragraph E). In this review, the County will consider the compatibility and interrelated impacts of the County's plans and policies with the relevant planning and land use policies of the Forest Service, and identify opportunities for the Revised Plan to address identified impacts, contribute to joint objectives, or resolve or reduce conflicts.

E. Reserve the right to participate in the public involvement process for the Draft EIS and Revised Plan and to submit comments on all aspects of the Draft EIS and Revised Plan during the public comment periods to the same extent as any member of the public. The County's participation as cooperating agency is not an endorsement of the Revised Plan.

IV. THE FOREST SERVICE SHALL:

In the development of the EIS for the Revised Plans, the Forest Service shall:

A. Provide the opportunity for the County to provide input on the development of the EIS specific to the County's areas of special expertise as noted in Section III, B, above.

B. Provide the opportunity for the County to review and provide analysis for preliminary Draft EIS and Revised Plan documents, or portions thereof, relevant to the County's areas of special expertise as noted in Section III, C.

C. "Use the County's environmental analyses and proposals, to the maximum extent possible consistent with the Forest Service's responsibility as lead agency in the development and approval of the EIS for the Revised Plan, as provided in 40 CFR 1501.6(a)(2)."

D. "Meet with the County at the latter's request, as provided in 40 CFR 1501.6(a)(3)."

E. The Forest Service principal contact listed in Section V, paragraph L shall serve as the primary liaison between the County and the RPT. The Forest Service principal contact shall:

i. Promptly inform the County of schedule changes that may affect the time afforded the County to perform its responsibilities as cooperating agency. The Forest Service will consider requests from the County for additional time to

perform its cooperating agency responsibilities.

ii. Coordinate with the Regional Planning Team Leader to provide the County the opportunity to provide input on the development of the EIS for the Revised Plan specific to the County's areas of special expertise as specified in Section III, B and C and Section IV, A and B.

iii. Ensure information provided by the County under the terms of this agreement is promptly delivered to the Regional Planning Team Leader for consideration in the development of the EIS for the Revised Plan.

iv. Coordinate with the principal County contact identified in Section V, paragraph L and the Regional Planning Team Leader to schedule meetings between County staff and the RPT. The purpose of the meetings is to share information, provide a forum for RPT and County staff to discuss resource issues or topics, and to involve the County in the development of the EIS as related to its areas of special expertise. The RPT / County meeting schedule will vary according to the project timeline or resource topic or issue, but is generally expected to coincide with milestones identified in the schedule in Appendix 2.

V. IT IS MUTUALLY UNDERSTOOD AND AGREED BY AND BETWEEN THE PARTIES THAT:

A. The Forest Service and the County will work together in good faith and shall attempt to resolve any disagreements under this MOU by negotiation.

B. The Forest Service and the County shall endeavor to work together to produce the work per the schedule identified in Appendix 2.

C. For the purposes of this MOU, the County's areas of special expertise are described in Appendix 1. In the event of changed circumstances or new information, it may be desirable to revise the County's areas of special expertise without amending this MOU. The following protocol shall be utilized to revise the County's areas of expertise:

i. The principal contact person (Section V, paragraph L) of the party that becomes aware of the need to revise the County's areas of special expertise shall notify the other party's principal contact person in writing as soon as possible. The notification shall include the specific areas of special expertise to be revised and the justification.

ii. Within two weeks of notification, the other party's principal contact person shall notify the first party's principal contact person in writing whether or not it is agreeable to revise the County's areas of special expertise.

iii. If the parties agree to revise the County's areas of special expertise, such revision shall be documented in a memorandum within two weeks of the notification of agreement describing the specific revision of the areas of special expertise and signed and dated by both parties' principal contact persons. The memorandum shall be prepared by the County in consultation with the Forest Service. The memorandum shall be kept with and appended to this agreement.

iv. If the parties are not agreeable to revising the County's areas of special expertise,

the parties shall meet within two weeks of the notification of the failure to agree to work in good faith to resolve any points of disagreement. If the parties are able to agree through this subsection to revise the County's areas of expertise, then the process described above shall be utilized to document the revision.

D. The Forest Service will determine the scope, scale, methods, forums, and timing for public participation in all aspects of the Plan Revision process; developing a plan proposal, including the monitoring program; commenting on the proposal and the disclosure of its environmental impacts in accompanying NEPA documents; and reviewing the results of monitoring information. The County may provide recommendations on the scope, scale, timing, methods, and forums for public involvement. In cooperation with the Forest Service, the County may offer opportunities to co-sponsor public meetings and other public participation forums. The County may circulate public documents to solicit feedback from County commissions including the Natural Resource Advisory Committee, Water Commission, Agricultural Resource Advisory Board, etc., within timeframes established by the Forest Service.

E. The Forest Service responsible official shall review the planning and land use policies of the County and present the results of the review in the EIS for the Revised Plan. That review will include consideration of (1) the County's objectives as expressed in its plans and policies; (2) the compatibility and interrelated impacts of the County's plans and policies with the relevant planning and land use policies of other government agencies; (3) opportunities for the Revised Plan to address the impacts identified or contribute to joint objectives; and (4) opportunities to resolve or reduce conflicts, within the context of developing the Revised Plan's desired conditions or objectives. 36 CFR 219.4(b)(2).

   To assist the Forest Service in conducting this review, the County will provide analysis and information related to those aspects of its planning and land use policies that it considers relevant to the Revised Plan (Section III, paragraph D). The Forest Service will consider the County's analysis and information in the development of the EIS. If the Forest Service disagrees with the County's analysis, the Forest Service will meet and confer with the County. If the Forest Service still disagrees with the County's analysis after meeting and conferring, the Forest Service shall notify the County in writing of its own review of the County's planning and land use policies conducted pursuant to 36 CFR 219.4(b)(2).

F. The Forest Service is not obligated by this MOU to provide a written response to the County's input on the development of the EIS and Revised Plan; however, the Forest Service and County principal contacts will make reasonable efforts to jointly review and discuss the County's suggested changes, analysis, recommendations and data before the Final EIS and draft plan decision document for the Revised Plan are released to the public by the Forest Service.

G. The Forest Service will work cooperatively with the County to ensure full access to non-privileged Forest Service expertise and factual data, information, and analysis related to the special expertise of the County so that the County may carry forth its responsibilities as cooperating agency. The County will provide the Forest Service full access to non-privileged factual data, information, and analysis related to its areas of special expertise and relevant to the assessment, revised plan, and plan monitoring program.

H. Information will be freely shared with either party except when constrained by factors such as the need to protect confidentiality. When information needs to be kept confidential, the entity providing the information shall indicate the need for confidentiality when conveying the information. This exchange will allow for useful comments related to the information to be exchanged amongst the parties. Any information that is exchanged may be subject to disclosure under the California Public Records Act and the Freedom of Information Act.

   i. The principal contact person for each party (Section V, paragraph L) shall act as a liaison for the information exchange. This person will be responsible to disseminate the information amongst staff and consultants. Copies of the data are to be made and distributed only to those staff and consultants directly involved with the Revised Plan, unless otherwise agreed to by the parties. Files are to be maintained of said data for the required document retention period based on applicable law. Any shared data is intended to be used exclusively for the development of the Revised Plan.

   ii. Information may be exchanged in-person, via mail, or email, or any other means deemed applicable. Information provided by either entity shall be accompanied by a summary of the information in order to clarify what is being provided and to identify any confidentiality issues related to the information being provided.

I. The County and the Forest Service will keep confidential and protect from public disclosure any and all documents exchanged or developed as a part of this MOU prior to a determination by the applicable party of the releasability of the documents under the Freedom of Information Act, 5 U.S.C. §552, or the California Public Records Act, California Government Code §6250 et seq. Neither party will disclose documents exchanged or developed as a part of this MOU without providing notice to the other party. Each party will protect, to the extent allowed by applicable state and federal laws, the confidentiality of the other party's documents. Both parties agree to impose the requirement of this paragraph upon their consultants, and the release of documents to those consultants shall not be deemed public disclosure.

J. By this MOU, the Forest Service does not relinquish its primary responsibility for NEPA (National Environmental Policy Act) and NFMA (National Forest Management Act) compliance. The Forest Service will retain responsibility for the development and content of the Revised Plan.

K. The County reserves its rights to pursue any remedies whatsoever to challenge the adequacy of the Revised Plan and its compliance with applicable laws and regulations in any administrative or judicial forum. The Forest Service likewise reserves its rights to raise all applicable affirmative defenses should any challenge to the adequacy of the Revised Plan be raised.

L. PRINCIPAL CONTACTS. Individuals listed below are authorized to act in their respective areas for matters related to this agreement.

Principal Cooperator Contacts:

Cooperator Program Manager	Cooperator Administrative Contact
Josh Hart, Planning Director PO Drawer L, 168 N. Edwards St. Independence, CA 93526 Telephone: (760) 878-0268 FAX: (760) 878-0382 Email: jhart@inyocounty.us	See Program Contact.

Principal Forest Service Contacts:

Forest Service Program Manager	Forest Service Administrative Contact
Forest Planner, Inyo National Forest 351 Pacu Ln, Suite 200 Bishop, CA 93514 Telephone: (760)873-2516 FAX: (760)873-2458 Email: lbmurphy@fs.fed.us	Aaron Stout 631 Coyote St. Nevada City, CA 95959 Telephone: (530)478-6825 FAX: (530)478-6161 Email: asstout@fs.fed.us

M. NOTICES. Any communications affecting the operations covered by this agreement given by the Forest Service or County is sufficient only if in writing and delivered in person, mailed, or transmitted electronically by e-mail or fax, as follows:

i. To the Forest Service Program Manager, at the address specified in the MOU.

ii. To the County, at the Program Manager's address shown in the MOU or such other address designated within the MOU.

iii. Notices are effective when delivered in accordance with this provision, or on the effective date of the notice, whichever is later.

N. PARTICIPATION IN SIMILAR ACTIVITIES. This MOU in no way restricts the Forest Service or the County from participating in similar activities with other public or private agencies, organizations, and individuals.

O. ENDORSEMENT. Any of the County's contributions made under this MOU do not by direct reference or implication convey Forest Service endorsement of County's products or activities, and do not by direct reference or implication convey the cooperator's endorsement of the Forest Service products or activities.

P. NONBINDING AGREEMENT. This MOU creates no right, benefit, or trust

responsibility, substantive or procedural, enforceable by law or equity. The parties shall manage their respective resources and activities in a separate, coordinated and mutually beneficial manner to meet the purpose(s) of this MOU. Nothing in this MOU authorizes any of the parties to obligate or transfer anything of value.

Specific, prospective projects or activities that involve the transfer of funds, services, property, and/or anything of value to a party requires the execution of separate agreements and are contingent upon numerous factors, including, as applicable, but not limited to: agency availability of appropriated funds and other resources; cooperator availability of funds and other resources; agency and cooperator administrative and legal requirements (including agency authorization by statute); etc. This MOU neither provides, nor meets these criteria. If the parties elect to enter into an obligation agreement that involves the transfer of funds, services, property, and/or anything of value to a party, then the applicable criteria must be met. Additionally, under a prospective agreement, each party operates under its own laws, regulations, and/or policies, and any Forest Service obligation is subject to the availability of appropriated funds and other resources. The negotiation, execution, and administration of these prospective agreements must comply with all applicable law. Nothing in this MOU is intended to alter, limit, or expand the agencies' statutory and regulatory authority.

Q. MEMBERS OF U.S. CONGRESS. Pursuant to 41 U.S.C. 22, no U.S. member of, or U.S. delegate to, Congress shall be admitted to any share or part of this agreement, or benefits that may arise therefrom, either directly or indirectly.

R. FREEDOM OF INFORMATION ACT (FOIA). Public access to MOU or agreement records must not be limited, except when such records must be kept confidential and would have been exempted from disclosure pursuant to Freedom of Information regulations (5 U.S.C. 552).

S. TEXT MESSAGING WHILE DRIVING. In accordance with Executive Order (EO) 13513, "Federal Leadership on Reducing Text Messaging While Driving," any and all text messaging by Federal employees is banned: a) while driving a Government owned vehicle (GOV) or driving a privately owned vehicle (POV) while on official Government business; or b) using any electronic equipment supplied by the Government when driving any vehicle at any time. All cooperators, their employees, volunteers, and contractors are encouraged to adopt and enforce policies that ban text messaging when driving company owned, leased or rented vehicles, POVs or GOVs when driving while on official Government business or when performing any work for or on behalf of the Government.

T. TERMINATION. Any of the parties, in writing, may terminate this MOU in whole, or in part, at any time before the date of expiration.

U. DEBARMENT AND SUSPENSION. The County shall immediately inform the Forest Service if they or any of their principals are presently excluded, debarred, or suspended from entering into covered transactions with the federal government according to the terms of 2 CFR Part 180. Additionally, should the County or any of their principals receive a transmittal letter or other official Federal notice of debarment or suspension, then they shall notify the Forest Service without undue delay. This applies whether the exclusion, debarment, or suspension is voluntary or involuntary.

V. MODIFICATIONS. Modifications within the scope of this MOU must be made by mutual consent of the parties, by the issuance of a written modification signed and dated by all properly authorized, signatory officials, prior to any changes being performed. Requests for modification should be made, in writing, at least 30 days prior to implementation of the requested change.

W. COMMENCEMENT/EXPIRATION DATE. This MOU is executed as of the date of the last signature. It may be modified through a written request by either party and written concurrence by all parties. The Forest Service or the County may terminate this agreement by providing a 60-day notice of termination to the other party. If not terminated sooner, this agreement is effective through publication of the Record of Decision for the Revised Plan, at which time it will expire, unless extended by an executed modification, signed and dated by all properly authorized, signatory officials.

X. AUTHORIZED REPRESENTATIVES. By signature below, each party certifies that the individuals listed in this document as representatives of the individual parties are authorized to act in their respective areas for matters related to this MOU. In witness whereof, the parties hereto have executed this MOU as of the last date written below.

RICK PUCCI, Chairperson
Inyo County Board of Supervisors

Date

EDWARD E. ARMENTA, Forest Supervisor
Inyo National Forest

Date

The authority and format of this agreement have been reviewed and approved for signature.

Forest Service Grants Management Specialist Date

Burden Statement

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0596-0217. The time required to complete this information collection is estimated to average 3 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD).

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call toll free (866) 632-9992 (voice). TDD users can contact USDA through local relay or the Federal relay at (800) 877-8339 (TDD) or (866) 377-8642 (relay voice). USDA is an equal opportunity provider and employer.

APPENDIX 1

The 2001 Inyo County General Plan, Government Element (updated 2/16/2010), defines collaboration and coordination with public agencies as:

- **Collaborative Planning Process** – A system where all parties involved come together to gain a better understanding of the environment in which they make and implement plans, to gain a full understanding of each other's concerns, and to work together as equals to solve issue of common concern.

- **Coordination** – A planning process by which the County and another public agency seek to harmonize the proposed public agency's action with County land use plans, especially the County's General Plan, with the goal of identifying conflicts between the County's and the public agency's land use plans and developing alternatives that are consistent with plans of both the County and the other public agency. The County has sole jurisdiction to interpret consistency and/or inconsistency between the other public agency's plans and the County's General Plan or other County plans. Representatives of the County and the other public agency meet to obtain and exchange information and to obtain consistency between the land use plans of the County and the other public agency to the extent practical.

Inyo County's Area of Special Expertise for Memorandum of Understanding between the Count of Inyo and the USDA, Forest Service

Constitutional Powers – The California Constitution divides the State into counties which are legal subdivisions of the State. The Legislature provides for county powers, an elected county sheriff, an elected district attorney, an elected assessor, and an elected governing body in each county. A county may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws.

Inyo County Code – Pursuant to California Government Code 50022.1 et seq., the County has adopted the Inyo County Code, which enforces a variety of regulations throughout the County, including regarding the following topics: County departments (such as Sheriff, Emergency Services, Animal Control, Law Enforcement, Probation, Public Works, Planning, Agricultural Commissioner, Surveyor, and Industrial Development Authority); outdoor festivals, peddlers, junk dealers, bingo, and dancing; weights and measures; public works, roads and bridges; groundwater extraction; solid waste collection and disposal, disposal sites, and dumping areas; pollution of highways and water; mosquito abatement; environmental health; refuse and weed abatement; surface mining and reclamation; animals; public peace, morals, and safety; vehicles and traffic; roads, parks, and underground utilities; building and safety; flooding; environmental review; subdivisions; zoning, including open space as well as regulation of wireless telecommunications facilities and water transfers; geothermal resource development, and; renewable energy development.

Planning and Land Use – Pursuant to the Planning and Zoning law of the State of California (Government Code Section 65000 et seq.), the County is responsible for preparing, reviewing, revising, adopting, and implementing a General Plan addressing its physical development, including land outside its boundaries that bear relation to its planning, consisting of the following seven required elements (and optional elements at its discretion): land use, circulation, housing, conservation, safety, open space, and noise. Inyo County's General Plan includes the following chapters: Government; Land Use; Public Services and Utilities; Economic Development; Housing; Roads and Highways; Scenic Highways; Public Transportation; Bicycles and Trails; Railroads; Aviation; Canals, Pipelines, and Transmission Cables; Other Circulation Topics; Soils; Agricultural Resources; Mineral and Energy Resources; Water Resources; Biological Resources; Cultural Resources; Visual Resources; Recreation; Air Quality; Flood Hazards; Avalanche Hazard; Wildfire Hazard; Geologic and Seismic Hazards, and; Noise.

According to State law, the General Plan is to include the following topics: land uses for housing, business, industry, open space (including agriculture), natural resources, recreation, enjoyment of scenic beauty, education, public buildings and grounds, solid and liquid waste disposal, and other categories of public and private uses of the land; regional housing need; circulation facilities for thoroughfares, transportation routes, terminals, airports and ports, and other local public utilities and facilities; conservation, development, and utilization of natural resources including water and its hydraulic force, forests, soils and rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources; protection of watersheds, prevention and control of the pollution of streams and other waters, and regulation of use of land in stream channels; protection of the community from any unreasonable risks associated with the effects of seismically induced surface rupture, ground shaking, ground failure, seiche, and dam failure; slope instability leading to mudslides and landslides, subsidence, liquefaction, and other geologic hazards; flooding and wildland fires; and open space for the preservation of natural resources, managed production of resources, outdoor recreation, public health and safety, support of military missions, protection of historic and cultural resources.

In addition to the required seven General Plan elements, the Inyo County General Plan includes two optional elements: Government and Economic Development. The Government Element addresses governance issues, such as coordination, multiple uses, collaborative planning, expansion of private lands within the County, federal and State land dispositions, economic development, water management, agricultural resources, recreation, wildlife and fisheries, mineral resources, energy resources, and access and transportation. The Economic Development Element addresses issues such as promoting tourism, expanding visitor capacity on public lands, destination spending, and encouraging resource-based land uses.

Public Services – The County provides numerous public services, including but not limited to law enforcement, search and rescue, avalanche control, public health, environmental health, social services, building and safety (including erosion, pollution control, and flood plain management), public works, planning, sanitation, solid waste disposal, oversight of water transfers, vector and weed control, curation, recreation, economic development, and marketing. In addition, the County undertakes a variety of regulatory responsibilities in the City of Bishop and special districts, including but not limited to law enforcement, emergency services, fire,

water, wastewater, sanitation, resource conservation, health care, judicial, and other community services.

Infrastructure – The County provides for and regulates a variety of local infrastructure, including streets and roads, lighting, park and recreational facilities, airports, solid waste disposal facilities, flood control, and water and wastewater treatment and distribution systems.

Transportation/Circulation – In addition to the County's planning and infrastructure responsibilities regarding transportation and circulation, the County staffs the Inyo County Local Transportation Commission (ICLTC), the State mandated Regional Transportation Planning Agency (RTPA) for Inyo County. The ICLTC prepares an annual Overall Work Program and a Regional Transportation Plan every four years, as well as programming projects into transportation improvement programs. The ICLTC also funds and prioritizes grant funding endorsements from a variety of programs for transportation planning, pedestrian and bicycle facilities, transit, mass transportation, and street and road projects.

Water – The Inyo County Water Department (ICWD) has extensive expertise in water issues, including related water quality and biological issues. Through the ICWD, the County monitors the vegetation, soil water, and hydrology of the Owens Valley following ground-water exportation by the City of Los Angeles, and implements extensive policy on extraction and use of water, and implements agreements with the City of Los Angeles and related environmental documents, ordinances, resolutions, and other instruments. Inyo County and the Los Angeles Department of Water and Power use this information to jointly manage the Owens Valley's water resources under the Inyo/Los Angeles Water Agreement. In addition, ICWD conducts research and carries out salt cedar control and arid lands revegetation programs, and participates in other water planning throughout the County.

Constituency Representation – as the County represents all of the people who live in the area influenced by the Forest, it provides unique access to the various interests that utilize forest resources and may be directly impacted by activities in the Forest, including miners, ranchers, packers, recreational merchants, scientists, etc. The Board of Supervisors and County boards and commissions include experts in these and other fields, and the County can expeditiously form working groups with specific local expertise in Forest issues.

APPENDIX 2
Conceptual Work Plan and Schedule for Memorandum of Understanding between the County of Inyo and the USDA, Forest Service

The Forest Service and County shall work to meet the deadlines in this conceptual schedule as they may be applicable throughout the development of the EIS for the Revised Plan and as described in Sections III, IV, and V of the *Memorandum of Understanding between the County of Inyo and the USDA, Forest Service* (MOU).

Coordination of the sub-tasks identified in the conceptual schedule will be primarily accomplished through regularly scheduled standing meetings between the principal contacts identified in the MOU and other Forest Service and County staff involved in the revision process. Standing meetings are scheduled for every Friday; the timing and frequency of the meetings may be adjusted as needed throughout the process. The Forest Service principal contact listed in the MOU shall serve as the primary liaison between the County and the Regional Planning Team and shall coordinate with the principal County contact and the Regional Planning Team Leader to schedule meetings between County staff and the Regional Planning Team (RPT) at the request of either party.

Milestone	Subtask – Forest Service (FS)	Subtask – Inyo County (County)	Approximate Schedule
Draft Plan/DEIS			January 2014 – September 2014
	Schedule meetings/ workshops between RPT and County	Participate in RPT mtgs./ workshops	Variable, as needed
	Board Of Supervisors (BOS) briefings	BOS briefings	FS to brief BOS as needed
	Coordinate with County regarding public notification of meetings	Provide assistance for public outreach	As needed
Sub-milestone – Identify Draft Plan and DEIS sections to be cooperatively developed	Meet w/ County staff to identify sections of draft plan and draft EIS to be prepared in cooperation with County and/or specific information needs (e.g., review of County planning and land use policies)	Meet w/ FS staff to identify sections	As soon as possible, ongoing

Milestone	Subtask – Forest Service (FS)	Subtask – Inyo County (County)	Approximate Schedule
Sub-milestone – Development of Draft Plan (pre-public release)	Share and / or discuss draft documents and analysis concepts with County.	Provide feedback iteratively. To protect deliberative process, submit draft BOS Agenda Request to FS for review and approval before sharing draft documents with BOS.	As soon as available; ongoing – meet timeframes as possible
		Provide staff comments re: plan sections	Forest deadline assigned
	Provide draft plan and EIS sections for review		Forest deadline assigned
		To protect deliberative process, submit draft BOS Agenda Request to FS for review and approval before sharing draft documents with BOS.	Forest deadline assigned
	Provide comments regarding draft Agenda Request to County staff		W/i 2 weeks of receipt
		BOS meeting	2 weeks after FS provides comments re: draft Agenda Request, or as soon thereafter as Board meets
		Provide BOS comments to FS	Forest deadline assigned
Sub-milestone – Development of D EIS (pre-public release)	Share and / or discuss draft documents, DEIS sections, and analysis concepts with County.	Provide feedback on draft documents and concepts iteratively.	As soon as available and by Forest deadline assigned
		Provide staff comments re: DEIS sections	Forest deadline assigned

Milestone	Subtask – Forest Service (FS)	Subtask – Inyo County (County)	Approximate Schedule
		To protect deliberative process, submit draft BOS Agenda Request to FS for review and approval before sharing draft documents with BOS.	W/i 2 weeks of receipt
	Provide comments regarding draft Agenda Request to County		W/i 2 weeks of receipt
		BOS meeting	2 weeks after FS provides comments re: draft Agenda Request, or as soon thereafter as Board meets
		Provide BOS comments to FS	W/i 2 weeks of BOS meeting
Sub-milestone – Final Review of Draft Plan and DEIS Prior to Public Release	Provide Draft Plan and DEIS		As soon as available
		Provide staff comments re: Final Screen Draft Plan and DEIS	Forest deadline assigned
		To protect deliberative process, submit draft BOS Agenda Request to FS for review and approval before sharing draft documents with BOS.	
	Provide comments regarding draft Agenda Request to County		W/i 2 weeks of receipt of Agenda Request
		BOS meeting	2 weeks after FS provides comments re: draft Agenda Request, or as soon thereafter as Board meets
		Provide BOS comments to FS	W/i 2 weeks of BOS meeting
	Publish Draft Plan/DEIS		October 2014

Milestone	Subtask – Forest Service (FS)	Subtask – Inyo County (County)	Approximate Schedule
DEIS Public Review Period/Meetings	Coordinate with County regarding public notification of public meetings	Provide assistance for public outreach	As needed
		Board, Commissions, Committees Updates	As soon as possible once Draft Plan/DEIS are available for public review
	Public Mtgs.		**Fall 2014**
		Provide summary of comments from Board, Commissions, and Committees to FS	Two weeks after close of comment period
	Provide overview of comments to County		Depends on the number of comments received, but goal is to discuss and/or review comments within eight weeks after final public input received
		BOS briefing	2 weeks after FS provides, or as soon thereafter as Board meets
		Provide final feedback to FS	Two weeks after BOS meeting
Development of FEIS/Proposed Plan	Coordinate with County regarding public notification of meetings	Provide assistance for public outreach	As needed
	BOS briefings	BOS briefings	Once per month for County staff; FS to brief BOS as needed
	Provide draft versions of Responses to Comments/FEIS		As soon as available
		Provide staff comments re: first screen responses to comments/FEIS	W/i 2 weeks of receipt

Milestone	Subtask – Forest Service (FS)	Subtask – Inyo County (County)	Approximate Schedule
	Consider County staff's comments on responses to public comments. Incorporate as appropriate.		
		To protect deliberative process, submit draft BOS Agenda Request to FS for review and approval before sharing draft documents with BOS.	
	Provide comments regarding draft Agenda Request to County		W/i 2 weeks of receipt
		BOS meeting	2 weeks after FS provides comments re: draft Agenda Request, or as soon thereafter as Board meets
		Provide BOS comments to FS	W/i 2 weeks of BOS meeting
	Submit FEIS for publishing		To be determined
Notice of Objection	Issue Notice of Objection, FEIS, Draft Record of Decision, and plan		June 2015
	Coordinate with County regarding public notification of meetings	Provide assistance for public outreach	As needed
	Public Meetings		**June-July 2015**
	Provide copies of objections to County		W/i 2 weeks of end of Objection Filing Period
		Provide draft BOS Agenda Request to FS	W/i 2 weeks of receipt
	Provide comments re: Draft Agenda Request to County		W/i 2 weeks of receipt

Milestone	Subtask – Forest Service (FS)	Subtask – Inyo County (County)	Approximate Schedule
		BOS Mtg.	2 weeks after FS provides comments re: draft Agenda Request, or as soon thereafter as Board meets
		Provide BOS comments to FS	W/i 2 weeks of BOS meeting
Objection Process	Coordinate Objector Meetings (requested by Reviewing Officer or Objector)	Participate in Objector Meetings as provided by 36 CFR 219.57	As needed
Record of Decision	Publish ROD / Notice of Plan Approval		November 2015
	Present ROD to BOS		December 2015
	Public Meetings		**December 2015**

MEMORANDUM OF AGREEMENT (MOA)
AMONG
CALIFORNIA, USDI BUREAU OF LAND MANAGEMENT,
US FOREST SERVICE, PACIFIC SOUTHWEST REGION
AND THE
CALIFORNIA STATE ASSOCIATION OF COUNTIES and
REGIONAL COUNCIL OF RURAL COUNTIES,
REPRESENTING CALIFORNIA COUNTY GOVERNING BODIES

Definitions: As used in this MOA, the following terms shall be defined as stated below:

"CSAC" means California State Association of Counties.

"RCRC" means Regional Council of Rural Counties.

"County" means a county in California that has a national forest or public land administered by the USDA Forest Service or the Bureau of Land Management within its boundary, and that elects to participate in this MOA.

"USFS" means Region Five, USDA Forest Service, and that part of Region Four including its National Forests in California.

"BLM" means California, USDI Bureau of Land Management, including its Districts and Field Offices in California.

Preface:

1. The USFS and BLM, under the laws of Congress, executive orders, and federal regulations are responsible for the management of the federal public lands, national forests and their resources. The USFS and BLM have a responsibility to sustain the health, diversity, and productivity of these federal public lands and national forests for the use and enjoyment of present and future generations.

2. CSAC and RCRC represent all of California's 58 counties, which encompass large amounts of federally held land. CSAC and RCRC work with federal and state governments and other stakeholders to improve the ability of county governments to serve California's citizens efficiently and effectively.

Statement of Purpose:

The USFS, BLM, and counties share a long partnership in the management of federal public lands and national forests in California. The purpose of this MOA is to help improve interagency relationships by facilitating early and frequent communication between the defined federal agencies and counties to foster a more

productive partnership that results in positive land management decisions for all parties.

Specifically, this MOA is intended to establish enhanced mutual communication between the USFS, BLM, and county governing bodies to assure consistency in process and outcomes among all parties. This regular, consistent communication is intended to build positive working relationships; maximize trust; minimize misunderstanding and potential conflicts;, and produce actions that result in better conclusions for California, thereby enhancing community support for those actions.

It is agreed that with the implementation of this MOA;

A. The governing body of each county that chooses to participate in this MOA shall designate a county contact for the USFS and BLM. This contact can be a "position" such as "County Planner," rather than a specific individual. This agreement is only in effect for counties that choose to participate by officially designating a county contact.
B. For each participating county, the USFS Regional Forester shall designate a USFS contact from each forest that contains land within that county. This contact can be a "position" rather than a specific individual.
C. For each participating county, the BLM State Director shall designate a BLM contact from each field office that contains land within that county. This contact can be a "position" rather than a specific individual.
D. After these designations have been finalized, within each county the designees from each entity shall convene a meeting at the request of either entity to discuss the MOA, and the process by which it will be implemented in that county.
E. This MOA is a beginning point and individual counties and federal agencies may agree to additional processes and norms that will enhance their communications and understanding of each other's work and be effective in their particular area.
F. The USFS Regional Forester or BLM State Director and county governing bodies shall convene to discuss and resolve issues related to overall land management in California as needed.

I. THE USFS and BLM SHALL:

A. Include the County in any planning processes to assure that the County's plans and policies are considered throughout the process.
B. Request the participation of the County in any planning process before public scoping. The federal managers will mail an updated list of potential projects to the county designated contact. County participation at this stage provides the opportunity for county concerns and ideas to be accommodated in the development of the project description prior to public scoping. Such notification

shall be to the designated key county contact, who will advise the key federal contact regarding desired County participation in such planning activities.

C. Understand that the County General Plans and other adopted policies reflect the objectives of the Board of Supervisors on behalf of the residents of the county.
D. Meet with the County Board of Supervisors at its request on an agreed upon time frame to update and confer with the County on upcoming programs, projects and other matters of interest.
E. Evaluate written comments from the County regarding how project proposals affect county plans and other adopted policies, and where consistent with federal laws, regulations, policies and agencies objectives, make every effort to work with County officials to achieve mutually agreeable results, consistent with the identified county plans and other adopted policies. If the federal manager's decision is not consistent with identified county plans and other adopted policies, then the manager will notify the county and document in writing how county plans, other adopted policies, and input were considered, and why consistency could not be achieved.

II. THE COUNTY SHALL:

A. Participate in requests for involvement at the earliest possible time, preferably before public scoping and identify concerns, needs and relevant county plans and other adopted policies in writing.
B. Within the County's constraints, make available staff support at the federal managers' request to enhance the agencies' interdisciplinary capability as a partner.
C. Provide written interpretations of germane sections of county plans and other adopted policies when the County thinks a proposed project is inconsistent.
D. Endeavor to provide written feedback with sufficient specificity that the federal managers are able to respond with particularity. Additionally, the County will attempt to provide alternative approaches to proposed projects.
E. Meet with the federal agencies at their request on an agreed upon time frame.
F. Request the participation of the federal managers in any county planning process relevant to the federal agencies, and consider written information received from the BLM or USFS during County land-use and project planning decisions.
G. Make every effort, consistent with state and county plans, policies, laws, regulations, and agency goals, to harmonize county land-use planning decisions with current USFS and BLM plans and regulations regarding lands managed by USFS and BLM within the county boundaries.

Limitations:

The USFS, BLM, and county governing bodies recognize that this MOA is not intended to replace presently existing lines of communications or alter existing required communications, such as communications made pursuant to state or federal statutes or regulations, Resource Advisory Committees, federal or county

workgroups, and informal or formal policy meetings between the USFS or BLM, and CSAC, RCRC, or an individual county.

Nothing in this MOA shall require the USFS, BLM, CSAC, RCRC or an individual county to violate or ignore any laws, rules, directives, or other legal requirements imposed by state or federal law.

This MOA is adopted to enhance communication and working relationships between the USFS, BLM, and counties.

Participation in Similar Activities:

This instrument in no way restricts the agencies or the counties from participating in similar activities with other public or private agencies, organizations, and individuals.

Establishment of Responsibilities:

This MOA is not intended to, and does not create, any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity. The parties shall manage their respective resources and activities in a separate and mutually beneficial manner to meet the purposes of this MOA. Nothing in the MOA authorizes any of the parties to obligate or transfer anything of value.

Effective Date:

This MOA becomes effective upon signature of all parties.

Term of Agreement:

This MOA is expected to continue for five years from the date of the last signature, after which it will be reviewed. If all parties concur, it will automatically be renewed for an additional five year term.

This agreement is neither a fiscal nor a funds obligation document. Any endeavor to transfer anything of value involving reimbursement or contribution of funds between the parties to this agreement will be handled in accordance with applicable laws, regulations, and procedures including those for Government procurement and printing. Such endeavors will be outlined in separate documents that shall be made in writing by representatives of the parties and shall be independently authorized by appropriate statutory authority. This agreement does not provide such authority. Specifically, this agreement does not establish authority for noncompetitive award to the cooperator of any contract or other agreement.

Termination:

Any of the parties, in writing, may terminate the instrument in whole, or in part, at any time before the date of expiration.

Freedom of Information Act (FOIA):

Any information furnished to the agencies under this instrument is subject to the Freedom of Information Act (5 U.S.C. 552).

Modification:

Modifications within the scope of the instrument shall be made by mutual consent of the parties, by the issuance of a written modification, signed and dated by all parties, prior to any changes being performed.

Authorized Representatives:

By signature below, the signatory officially certifies that the individual listed in this document as representative of the signatory is authorized to act in the signatory's respective areas for matters related to the development of this agreement.

RANDY MOORE, Regional Forester
U.S. Forest Service, Pacific Southwest Region

7/23/12
Date

JAMES G. KENNA, State Director
USDI Bureau of Land Management, California State Office

7/23/2012
Date

PAUL McINTOSH, Executive Director
California State Association of Counties

7/23/12
Date

GREG NORTON, President
Regional Council of Rural Counties

7/23/12
Date

CC Bo/S CAO Mata 37

EDMUND G. BROWN JR.
GOVERNOR

MARK S. GHILARDUCCI
DIRECTOR

Cal OES
GOVERNOR'S OFFICE OF EMERGENCY SERVICES

March 26, 2014

RECEIVED
2014 APR -8 PM 2:44
INYO COUNTY ADMINISTRATOR
CLERK OF THE BOARD

The Honorable Rick Pucci
Inyo County Board of Supervisors
P.O. Box N
Independence, California 93526

Dear Chairman Pucci:

This is in response to Inyo County's local proclamation of an emergency due to drought. Governor Brown's office is working with state and federal authorities to lessen the effects of California's drought as well as address issues impacting individuals, businesses, and the environment.

In January 2014, several declarations came about affecting California's 58 counties as a result of the drought. A gubernatorial state of emergency was proclaimed, which also established a Drought Task Force to oversee and coordinate response to California's water shortages, in addition to ensuring the health safety of our citizens and protecting natural resources; a U.S. Department of Agriculture (USDA) Disaster Designation making farm operators eligible for low interest emergency loans through USDA's Farm Service Agency; and a U.S. Small Business Administration (SBA) Economic Injury Disaster Designation making low-interest loans available to eligible homeowners, renters, and small non-farm businesses in California.

Beyond the programs currently in place, President Obama recently made $183 million available to drought-ravaged communities to help ranchers recover from drought-related losses and help provide food and water to families impacted by the drought. Further, the President's 2015 Budget will include a $1 Billion Climate Resilience Fund to help communities in two ways: (1) to better plan and prepare for the impacts of climate change while encouraging local measures to reduce risk; and, (2) to fund breakthrough technologies and resilient infrastructures to combat the effects of changing climate.

Governor Brown recently expedited relief funds to immediately help communities deal with the devastatingly dry conditions. The legislation provides $687.4 million for housing and food for workers directly impacted by the drought, bond funds for projects to help local communities more efficiently capture and manage water, and funding for securing emergency drinking water supplies for drought-impacted communities.

3650 SCHRIEVER AVENUE, MATHER, CA 95655
(916) 845-8506 TELEPHONE (916) 845-8511 FAX

While the situation does not currently warrant enactment of the California Disaster Assistance Act (CDAA), please be assured Cal OES strives to ensure all communities receive any and all resources, including financial assistance, available to limit the impact of local disasters on the public. Cal OES will continue to work closely with operational areas to monitor and evaluate the impact on California's local jurisdictions from drought and will revisit funding under CDAA should drought conditions escalate.

Please know that Cal OES will continue to work closely with your team during the recovery efforts and explore opportunities to supplement the funding available. Feel free to contact me directly at (916) 845-8506 if you have any additional questions or if you would like to discuss this matter further.

Sincerely,

MARK S. GHILARDUCCI
Director

38

State of California—Transportation Agency

EDMUND G. BROWN Jr., Governor

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL
469 South Main Street
Bishop, CA 93514
(760) 872-5960
(800) 735-2929 (TT/TDD)
(800) 735-2922 (Voice)

March 18, 2014

File No.: 825.15020.11451

RECEIVED
2014 APR -8 PM 2:48
INYO COUNTY
ADMINISTRATOR
CLERK OF THE BOARD

Inyo County Board of Supervisors
P O Drawer N
Independence, CA 93526

Dear Board of Supervisors:

The enclosed report is submitted pursuant to Health and Safety Code Section 25180.7 (Proposition 65). The report documents information regarding the illegal discharge (or threatened illegal discharge) of hazardous waste, which could cause substantial injury to the public health or safety. The report is submitted on behalf of all designated employees of the Department of California Highway Patrol.

Sincerely,

A. D. WITMER, Captain
Commander
Bishop Area

Enclosure

cc: Caltrans

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

HAZARDOUS MATERIALS INCIDENT REPORT

CHP 407E (Rev 5-11) OPI 062 Refer to HPM 84.2, Chapter 2

☒ Original ☐ Change ☐ Delete

HAZARDOUS MATERIALS CONFIRMED ☒ Yes ☐ No

A

AGENCY NAME	AGENCY I.D. NUMBER	AGENCY INCIDENT NUMBER *(HQ. USE)*	AGENCY PHONE NUMBER	OES CONTROL NUMBER
California Highway Patrol	66		(916) 843-3400	14-1608

B

INCIDENT DATE *(MONTH,DAY,YEAR)*	TIME NOTIFIED	TIME COMPLETED	DATE COMPLETED *(IF DIFFERENT)*
03/13/2014	07:51	16:30	03/17/2014

C

INCIDENT ADDRESS/LOCATION	CITY/COMMUNITY	COUNTY	ZIP CODE
US-395 N/B, south of Fort Independence Rd	Unincorporated	Inyo	93526

D

WEATHER *(CHECK BEST DESCRIPTION)*: ☒ 1 Clear ☐ 3 Rain ☐ 4 Snow ☐ 5 Hail ☐ 6 Electrical storm ☐ 7 Fog ☐ 8 High wind ☐ 9 Other ☐ 40 Unknown

EST. TEMPERATURE: 77

PROPERTY USE *(SEE CODES BELOW)*: 961

SURROUNDING AREA *(SEE CODES BELOW)*: 931

PROPERTY MANAGEMENT: ☐ Federal ☒ State ☐ County ☐ City ☐ Private ☐ Unknown

PROPERTY USE AND SURROUNDING AREA TYPE CODES

100 Public Assembly	650 Agricultural	936 Vacant lot	962 County/City road
200 Educational	700 Manufacturing	941 Open sea	963 Private road
300 Health care	762 Hazmat chem mfg	942 Harbor/Port	965 Rest stop/vista point
400 Residential	767 Petroleum refinery	946 Lake/Pond/River	966 Scale/inspection facility
500 Mercantile, Business	800 Storage	950 Railroad	099 Other (explain in Comments)
600 Industrial, Utility	931 Open land	961 Freeway	

E

RELEASE FACTORS *(CHECK BEST DESCRIPTION(S))*

- ___ 11 Intentional act
- ___ 12 Suspicious act
- ___ 30 Failure to control hazmat
- ___ 31 Abandoned
- ___ 40 Misuse of hazmat
- ___ 50 Mechanical failure
- ___ 60 Design, construction installation deficiency
- ___ 70 Operational deficiency
- ___ 71 Collision/overturn
- ___ 80 Natural condition
- ___ 94 Fire/explosion
- ___ 98 No release
- ___ 99 Other ___
- X 00 Undetermined

TYPE OF EQUIPMENT INVOLVED

- ___ 10 Heating systems
- ___ 30 Air condition/refrig
- ___ 77 Chem processing equipment
- ___ 78 Waste recovery equipment
- ___ 96 Hazmat transfer equipment
- ___ 97 Vehicle fuel system
- X 98 No equipment involved
- ___ 99 Other ___
- ___ 00 Undetermined

MOBILE PROPERTY TYPE

- ___ 10 Passenger vehicle/road
- X 20 Freight vehicle/road
- ___ 30 Rail transport vehicle
- ___ 40 Water transport vessel
- ___ 50 Air transport vessel
- ___ 60 Heavy equip. indust./agri
- ___ 98 No mobile property involved
- ___ 99 Other ___
- ___ 00 Undetermined

F

ACTION TAKEN *(CHECK ONE OR MORE)*

- ___ 31 Rescue, remove from harm
- ___ 32 Extrication, disentanglement
- ___ 33 Emergency medical services
- ___ 35 Search
- ___ 36 Transport
- X 41 Remove hazard *(neutralized)*
- X 42 ID/analysis of hazmat
- ___ 43 Evacuation
- X 44 Establish safe area
- ___ 45 Monitor
- ___ 46 Decon-person/equip.
- X 47 Decon-area *(clean up)*
- X 48 Contain/control hazmat
- ___ 61 Crowd control
- X 62 Traffic control
- X 63 Notify other agency
- ___ 64 Provide public information
- X 71 Investigate
- ___ 73 Shut down system
- X 82 Secure property
- ___ 92 Refer to proper authority
- ___ 97 Hazmat response, material determined to be non-hazardous
- ___ 98 No action taken
- ___ 99 Other ___

G

CHEMICAL NAME OR TRADE NAME *(PRINT OR TYPE)*	DOT ID NUMBER	DOT HAZARD CLASS	CASE NUMBER
Diesel Fuel	1993	3	

PHYSICAL STATE STORED	PHYSICAL STATE RELEASED	QUANTITY RELEASED *(LBS., GAL., ETC.)*	ENVIRONMENTAL CONTAMINATION	EXTENT OF RELEASE *(SEE CODES [1] BELOW)*
___ 1 Solid X 2 Liquid ___ 3 Gas	___ 1 Solid X 2 Liquid ___ 3 Gas	50-100	___ 1 Air X 3 Ground ___ 2 Water ___ 9 Other	9

CONTAINER DESCRIPTION		CONTAINER TYPE *(SEE CODES [2] BELOW)*	LEVEL OF CONTAINER *(SEE CODES [3] BELOW)*	CONTAINER MATERIAL *(SEE CODES [4] BELOW)*	CONTAINER CAPACITY *(LBS., GAL., ETC.)*
___ 1 Fixed	___ 1 Insulated	41	30	2	100
___ 2 Portable	___ 2 Pressurized				
X 3 Mobile	___ 3 Armored				

CHEMICAL NAME OR TRADE NAME *(PRINT OR TYPE)*	DOT ID NUMBER	DOT HAZARD CLASS	CASE NUMBER

PHYSICAL STATE STORED	PHYSICAL STATE RELEASED	QUANTITY RELEASED *(LBS., GAL., ETC.)*	ENVIRONMENTAL CONTAMINATION	EXTENT OF RELEASE *(SEE CODES [1] BELOW)*
___ 1 Solid ___ 2 Liquid ___ 3 Gas	___ 1 Solid ___ 2 Liquid ___ 3 Gas		___ 1 Air ___ 3 Ground ___ 2 Water ___ 9 Other	

CONTAINER DESCRIPTION		CONTAINER TYPE *(SEE CODES [2] BELOW)*	LEVEL OF CONTAINER *(SEE CODES [3] BELOW)*	CONTAINER MATERIAL *(SEE CODES [4] BELOW)*	CONTAINER CAPACITY *(LBS., GAL., ETC.)*
___ 1 Fixed	___ 1 Insulated				
___ 2 Portable	___ 2 Pressurized				
___ 3 Mobile	___ 3 Armored				

EXTENT OF RELEASE CODES (1)

1 Confined to vehicle/equipment
2 Confined to room of origin
3 Confined to floor of origin
4 Confined to structure of origin
6 Confined to property use of origin
7 Release beyond property use of origin
8 NO RELEASE
9 Other *(explain in Comments)*
0 Undetermined

CONTAINER TYPE CODES (2)

11 Drum
12 Cylinder
13 Can or bottle
14 Carboy
15 Box or carton
16 Bag
21 Tank or silo *(including vehicle cargo tanks)*
22 Pipe
24 Machinery or process equipment
31 Sump/Pit
32 Pond or surface impoundment
33 Well
41 Vehicular fuel tank
98 NO CONTAINER
99 Other *(explain in Comments)*
00 Undetermined

LEVEL OF CONTAINER CODES (3)

11 Ground level
30 Above ground
40 Below ground

CONTAINER MATERIAL CODES (4)

1 Iron and iron alloys
2 Aluminum and aluminum alloys
3 Copper and copper alloys
4 Plastic *(includes fiberglass)*, rigid
5 Plastic, flexible
6 Wood, paper, and cellulose products
7 Glass
9 Other *(explain in Comments)*
0 Undetermined

REPORTING OFFICER NAME/RANK/I.D. NO. *(PRINT OR TYPE)*	DATE	COMMENTS ON ATTACHMENT
M. A. Lopez, Sergeant, 15020	03/18/2014	☒ Yes ☐ No

H MORE THAN TWO SUBSTANCES INVOLVED *(LIST ADDITIONAL INFORMATION ON CHP 556)*

☐ Yes ☒ No

I SPECIAL STUDIES - LOCAL USE

1. A B C D 2. A B C D 3. A B C D

SPECIAL STUDIES - STATE USE

4. A B C D 5. A B C D 6. A B C D

J HAZMAT IDENTIFICATION SOURCES *(CHECK BEST DESCRIPTION(S))*

___ 19 On-site fire services
___ 25 Private info source
___ 29 Off-site fire services
___ 40 On-site non-fire services
___ 60 Off-site non-fire services
___ 54 Chemist
___ 58 Tox center
___ 59 Chemtrec
___ 71 DOT manual
___ 73 MSDS
___ 75 Placards/signs
___ 78 Shipping papers
___ 87 Computer software
X 98 No reference material used
___ 99 Other ___

HAZMAT CASUALTIES	NO. OF DECON./ EXPOSED	NO. OF INJURIES	NO. FATALITIES
Responding agency personnel	0	0	0
Others	0	0	0

K

VEHICLE MAKE/YEAR	VEHICLE LICENSE NO.	STATE	VEHICLE I.D. NO. *(VIN)*	CA/DOT/PUC/ICC NO.	COMPANY NAME
Unknown	Unknown				

M

JUDICIAL DISTRICT	BEAT	NCIC NUMBER	PLACARDS REQUIRED	PHOTOGRAPHS
Independence Superior	004	9825	☐ Yes ☒ No	☒ Yes ☐ No

MILEPOST INFORMATION: ☒ .2 miles Feet south of milepost 75.00

TIME O.E.S. NOTIFIED: 07:52

TIME CALTRANS/COUNTY ROADS NOTIFIED: Cal Trans on 3/13/2014

☐ At intersection with

☒ Or: .3 Feet/miles south of Fort Independence Road

N

CARRIER'S NAME: Unknown

PHONE NUMBER *(INCLUDE AREA CODE)*: Unknown

ADDRESS *(INCLUDE CITY, STATE AND ZIP CODE)*: Unknown

O

DRIVER'S NAME: Unknown

LICENSE NUMBER AND STATE: Unknown

PHONE NUMBER *(INCLUDE AREA CODE)*:

ADDRESS *(INCLUDE CITY, STATE AND ZIP CODE)*: Unknown

P ***Enter at least one of either the CHP, DOT, PUC, or ICC number.***

CHP NUMBER	PUC NUMBER
CA	T
DOT NUMBER	**ICC NUMBER**
US	MC

Q If applicable, enter cargo tank specification number and/or at least one of the following:

CARGO TANK SPECIFICATION NUMBER

DOT-E

MC/DOT

1. CHP cargo tank registration number *(CT. . .)*
2. DHS Waste Hauler Compliance Sticker number

R

CITATION ISSUED OR COMPLAINT TO BE FILED: ☐ Yes ☒ No ☐ Not determined

OTHER HAZARDOUS MATERIALS VIOLATIONS *(NON-CAUSATIVE)*: ☐ Yes* ☒ No

PRIMARY CAUSE OF INCIDENT: ☐ Violation 34506(b) VC/C.C.R. Section

DID WEATHER CONTRIBUTE TO EITHER CAUSE AND/OR SEVERITY OF INCIDENT? ☐ Yes* ☒ No

☐ Other Code violation

AFTER ACTION REPORT REQUIRED? *(REFER TO G.O. 100.79)* ☐ Yes* ☒ No

☐ Other cause*

COLLISION REPORT MADE? ☐ Yes* ☒ No

NUMBER:

S

DATE AND TIME SCENE DECLARED SAFE: 03/17/2014 16:30

BY WHOM *(NAME, TITLE AND AGENCY)*: Andy Richard, Bishop Maintenance Superintendent, Tech-Spec., Cal Trans

ROAD CLOSURE: ☒ None ☐ Full--Hours: ☐ Partial--Hours: ☐ Alternative route--Hours:

T Complete narrative on CHP 556

ELEMENTS *(AS APPLICABLE): (IF MORE THAN ONE CARRIER OR MORE THAN THREE COMMODITIES ARE INVOLVED, INCLUDE ADDITIONAL INFORMATION IN NARRATIVE.)*

1. Sequence of events
2. Road closures
3. Evacuation details
4. Environmental impact
5. Cleanup actions
6. Actions of other agencies
7. CHP personnel data--name, rank, I.D. no., function, exposure, hours

PREPARER'S NAME, RANK, AND I.D. NUMBER	DATE	REVIEWER'S NAME, RANK, AND I.D. NUMBER	DATE
M. A. Lopez, Sergeant, 15020	03/18/2014	A WITMER CAPT 11451	3/21/14