

**ADDENDUM TO AGREEMENT**  
(Public Works of Improvement)

Notwithstanding any other provision of the Agreement by and between the County of Stanislaus ("County") and \_\_\_\_\_ ("Contractor"), the parties hereby specifically agree to the following additional terms and conditions, which shall be and hereby are integrated and incorporated into the Agreement on the same date as and contemporaneous with the Agreement:

I. Bonds.

1.1 Performance Bond. Pursuant to Public Contract Code section 201 29, prior to commencing the work, the Contractor shall execute and file a performance bond issued by a California admitted surety and approved as to form by the County in the amount of one hundred percent (100%) of the contract price for the faithful performance of the contract.

1.2 Payment Bond. Pursuant to Civil Code section 3247, prior to commencing the work, the Contractor shall execute and file a payment bond issued by a California admitted surety and approved as to form by the County in the amount of one hundred percent (100%) of the contract price for the faithful payment and satisfaction of all lawful claims of all persons for labor and materials furnished in the prosecution of the contract work. The payment bond shall conform in all respects to the requirements of Civil Code section 3248.

1.3 Sufficiency of Surety. Before bonds are approved by the County and any work begins under the Contract, any surety insurer issuing a payment or performance bond shall submit to the County all of the documents required under Code of Civil Procedure section 995.660. All surety bonds shall be issued by an admitted surety insurer with assets exceeding liabilities in an amount equal to or in excess of the amount of the bond.

1.4 Non-exoneration of Bonds. Any alteration or alterations made in this contract, or any part hereof, shall not operate to release any surety from liability of any bond given pursuant to the provisions of this Agreement and the consent of such surety to such alteration or alterations is hereby given, the surety expressly waiving hereby the provisions of Section 2819 of the Civil Code.

2. Labor Code Compliance.

2.1 Prevailing Wage. Pursuant to Labor Code section 1771, the work under this Agreement is subject to the provisions of Article 2 (commencing with section 1770) of Chapter 1 of Part 7 of Division 2 of the Labor Code, and the Contractor shall pay all workers the general prevailing rate of per diem wages applicable to the work to be done for straight time, overtime, Saturday, Sunday and holiday work. These wage rates, which are set forth by the Director of the Department of Industrial Relations, are now on file with the Department of Public Works and are a part of this Agreement. The Contractor shall post a copy of these prevailing wage rates on the job site.

2.2 Payroll Records. Pursuant to and in accordance with the provisions Labor Code section 1776, the Contractor shall keep accurate payroll records of employees performing work under this Agreement and shall make available for inspection a certified copy such payroll records.

2.3 8 Hour Day. Pursuant to and in accordance with the provisions of Labor Code sections 181 0, 181 1 and 181 5, the time of service of any laborer, workman, or mechanic employed upon any of the work under this Agreement is limited and restricted to eight (8) hours during any one calendar day, and forty (40) hours during any one calendar week, except that work performed by employees of Contractors in excess of eight (8) hours per day, and forty (40) hours during any one week, shall be permitted upon compensation for all hours worked in excess of eight (8) hours per day at not less than one and one-half (1-1/2) times the basic rate of pay.

2.4 Apprentices. The Contractor shall comply with all applicable provisions of the Labor Code, including without limitation sections 1777.5 and 1777.6, related to employment of apprentices by the Contractor and all subcontractors, and Contractor shall be subject to all applicable penalties for non-compliance.

2.4 Penalties. The Contractor shall comply with Labor Code section 1775. In accordance with Labor Code sections 1775 and 181 3, the Contractor shall forfeit, as a penalty to the County of Stanislaus, \$25.00 for (a) each calendar day or portion thereof for each workman paid less than the stipulated prevailing rates for such work or craft in which such workman is employed for any work done under the contract by him or by any subcontractor under him; and (b) each calendar day or week during which any laborer workman or mechanic is required or permitted to labor more than eight (8) hours in any one calendar day or forty (40) hours in any one calendar week in violation of the provisions of Article 3 (commencing with section 181 0) of Chapter I , Part 7, Division 2 of the Labor Code. In addition to said penalties, the difference between such stipulated prevailing wage rates and the amount paid to each-workman for each calendar day or portion thereof for which each workman was paid less than the stipulated prevailing wage rate shall be paid to each workman by the Contractor.

### 3. Substitution of Securities for Withheld Payments.

Pursuant to and in accordance with the provisions of Public Contract Code section 22300, the Contractor may elect to substitute securities for retention monies withheld by the County or to request payment of retention monies earned to an escrow agent.

### 4. Trenching and Excavation.

4.1 Subsurface Conditions. Pursuant to Public Contract Code section 7104, the following provisions shall apply provided the work under this Agreement involves digging trenches or other excavations that extend deeper than four (4) feet below the surface:

- (a) The Contractor shall promptly, and before the following conditions are disturbed, notify the public entity, in writing, of any:
  - (1) Material that the Contractor believes may be material that is hazardous waste, as defined in Section 251 17 of the Health and Safety Code, that is required to be removed to a Class I, Class 11, or Class III disposal site in accordance with provisions of existing law.
  - (2) Subsurface or latent physical conditions at the site differing from those indicated.

- (3) Unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the contract.
- (b) The public entity shall promptly investigate the conditions, and if it finds that the conditions do materially so differ, or do involve hazardous waste, and cause a decrease or increase in the Contractor's cost of, or the time required for, performance of any part of the work shall issue a change order under the procedures described in the contract.
- (c) In the event that a dispute arises between the public entity and the Contractor whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in the Contractor's cost of, or time required for, performance of any part of the work, the Contractor shall not be excused from any scheduled completion date provided for by the contract, but shall proceed with all work to be performed under the contract. The Contractor shall retain any and all rights provided either by contract or by law which pertain to the resolution of disputes and protests between the contracting parties.

4.2 Excavation Shoring. Pursuant to Labor Code section 6707, if the work under this Agreement involves digging trenches or other excavations that extend deeper than five (5) feet below the surface the Contractor shall provide at its sole cost and expense adequate sheeting, shoring and bracing, or equivalent method, for the protection of life or limb, which shall conform to applicable safety orders.

5. Utility Relocation.

Pursuant to Government Code section 421 5, the Contractor shall be compensated for the costs of locating, repairing damage not due to the failure of the Contractor to exercise reasonable care, and removing or relocating such utility facilities not indicated in the plans and specifications with reasonable accuracy, and for equipment on the project necessarily idled during such work. The Contractor shall not be assessed liquidated damages for delay in completion of the project, when such delay is caused by the failure of the County of the utility owner to provide for removal or relocation of such utility facilities.

6. Assignment of Anti-Trust Actions and Unfair Business Practice Clams.

In entering into a public works contract or a subcontract to supply goods, services, or materials pursuant to a public works contract, the Contractor or subcontractor offers and agrees to assign to the awarding body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the public works contract or the subcontract. This assignment shall be made and become effective at the time the awarding body tenders final payment to the Contractor, without further acknowledgment by the parties.