



Calaveras County

California

PUBLIC WORKS DEPARTMENT

BID BOOK

ROCK CREEK GATEHOUSE REPLACEMENT PROJECT
IN CALAVERAS COUNTY, CALIFORNIA

Bid Book dated November 1, 2016

Project Plans dated Sept.13, 2016

Request For Bids dated January 1, 2017

Advertising Date: Feb. 1, 2017- Feb. 15, 2017

Bids Open: February 16, 2017

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NOTICE TO BIDDERS

COUNTY OF CALAVERAS

DEPARTMENT OF PUBLIC WORKS

ROCK CREEK GATEHOUSE REPLACEMENT PROJECT

Notice is hereby given that the Calaveras County Department of Public Works will receive sealed bids for the Design/Build work shown and described in the specifications and associated documents for the subject work.

Work shall include the design and construction of a 8'x20' replacement gatehouse at the Rock Creek Landfill in Milton CA. Work includes deenergizing/demolition/removal/replacement of the gatehouse and replacing it with a new functioning gatehouse. The payment of prevailing wage is a requirement.

All work specified by this contract shall be done per CalTrans Standards as follows: 2010 Standard Plans, 2010 Standard Specifications, and 2006 Structures Standard Specifications for material specifications, manufacturer specifications, and as modified by this Request For Bids.

The Contractor shall possess at a minimum either a **Class A** General Engineering Contractor or a **Class B** General Building Contractor license at the time this contract is awarded. Failure of the bidder to obtain the required license before award of contract constitutes a failure to execute the contract. The Contractor and Subcontractors shall be registered with the Department of Industrial Relations. See <http://www.dir.ca.gov/Public-Works/PublicWorks.html> for more information.

BACKGROUND

The County of Calaveras maintains and operates the Rock Creek Landfill 12021 Hunt Road, near Milton CA. That facility's gatehouse structure has an identifiable mold presence that has made the structure uninhabitable. This work removes and replaces: the structure, all appurtenance, all communication systems, all components, and all systems.

BID PACKET

Contractors interested in providing Design/Build services in the fulfillment of this request can obtain a bid packet (Bid Book, Special Provisions and Sample Contract) from Calaveras County Department of Public Works, 891 Mountain Ranch Road, San Andreas for a **Non-Refundable Fee of \$25 per set**, between the hours of 8 a.m. - 4 p.m., Monday-Friday, or by calling (209) 754-6401. The bid packet may also be acquired from the website: <http://www.publicpurchase.com/gems/calaverasco.ca/buyer/public/home>. Instructions for bidding are in the bid packet. Bids must be submitted by the due date and time below to be considered:

Bids must be submitted by: 3:00 p.m. February 16, 2017, to the County Administration Office.

BID BOOK

Rock Creek Gatehouse Replacement Project Contract No. 2016-IWM001

County of Calaveras – Public Works – Bid Book

Design/Build Bid to the County of Calaveras

Project Name _____

Name of Bidder _____

Business P.O. Box _____

City, State, Zip _____

Business Street Address _____

City, State, Zip _____

Telephone No. _____

Fax No. _____

Contractor License No. _____

1. Bidder agrees, if this bid is accepted, to enter into a contract with the County, in the form included in this Bid Book, to perform the work provided in the Contract under the terms of the Contract for the price or prices bid.

For a lump sum or unit price based bid, Bidder additionally agrees to perform the work within the number of working days or by date shown on the *Notice to Contractors*.

For a cost plus time based bid on a contract without a plant establishment period, Bidder additionally agrees to perform the work within the number of working days bid.

For a cost plus time based bid on a contract with a plant establishment period, Bidder additionally agrees to perform the non-plant establishment work within the number of working days bid for non-plant establishment work.

2. For a lump sum based bid, Bidder submits this bid with a total price in the total bid space provided on the Bid Item List. For a unit price or cost plus time based bid, Bidder submits this bid with a unit price and the item total (the product of the unit price and the quantity) for each item and a total price (the sum of the item totals) in the spaces provided on the attached Bid Item List. For a unit price with additive item based bid, Bidder submits this bid with a unit price and an item total for each item and a total base bid (the sum of the item totals) and the additive items in the spaces provided on the attached Bid Item List. Additionally, for a cost plus time based bid, Bidder submits this bid with working days bid for non-plant establishment work, total bid for time, and total bid for bid comparison in the spaces provided on the Bid Item List. Bidder agrees:

2.1. If a discrepancy between the unit price and the item total exists, the unit price prevails except:

2.1.1. If the unit price is illegible, omitted, or the same as the item total, item total prevails and the unit price is the quotient of the item total and the quantity.

- 2.1.2. If a decimal error is apparent in the product of the unit price and the quantity, the County will use either the unit price or item total based on the closest by percentage to the unit price or item total in the County's Final Estimate.
- 2.2. If the unit price and the item total are illegible or are omitted, the bid may be determined nonresponsive. If a lump sum total price is illegible or is omitted, the bid may be determined nonresponsive.
- 2.3. Bids on lump sum items are item totals. If a unit price for a lump sum item is entered and it differs from the item total, the item total prevails.
- 2.4. Entries are to be expressed in dollars or decimal fractions of a dollar. Symbols such as commas and dollar signs are ignored and have no significance in establishing unit price or item total.
- 2.5. Unit prices and item totals are interpreted by the number of digits and decimal placement. Do not round item totals or the total bid.
- 2.6. For a lump sum based bid, the item total is the bid amount the County uses for bid comparison.
- 2.7. For a unit price based bid, the sum of the item totals is the bid amount the County uses for bid comparison.
- 2.8. For a cost plus time based bid, the sum of the item totals and the total bid for time is the bid amount the County uses for bid comparison.
- 2.9. The County's decision on the bid amount is final.

Bidder has and acknowledges the following addenda:

- 1.
- 2.
- 3.
- 4.

Bidder submits this bid with one of the following forms of bidder's security equal to at least 10 percent of the bid:

Cash \$ _____, Cashier's Check, Certified Check, Bidder's Bond

Bidder's signature is an affirmation of the included certifications. Bidder is cautioned that making a false certification may result in one or more of the following:

- Criminal prosecution
- Rejection of the bid
- Rescission of the award
- Termination of the Contract

BY (Authorized Signature)

DATE SIGNED (Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

BID SCHEDULE
Rock Creek Gatehouse Replacement Project
Contract No. 2016-IWM001

Item #	Special Provision	Item Description	Unit	Estimated Quantity	Unit Price	Total Amount
1	4-1	Mobilization	LS	1	\$	\$
2	11-1	Utilities	LS	1	\$	\$
3	14-1	Removal	LS	1	\$	\$
4	14-3	Gatehouse	LS	1	\$	\$
		TOTAL COST				\$

- (1) THE ABOVE QUANTITIES ARE ESTIMATES ONLY AND ARE GIVEN AS A BASIS FOR COMPARISON OF BIDS. NO GUARANTEE IS MADE OR IMPLIED AS TO THE EXACT QUANTITY THAT WILL BE ASSIGNED
- (2) IN CASE OF DISCREPANCY BETWEEN THE UNIT PRICE AND THE TOTAL SET FORTH FOR A UNIT BASIS ITEM, THE UNIT PRICE SHALL PREVAIL
- (3) ANY ALTERATIONS, MODIFICATIONS, OR CHANGES TO THIS BID SCHEDULE SHEET BY THE BIDDER WILL BE GROUNDS FOR BID REJECTION.

BID SCHEDULE SUBMITTALS
Rock Creek Gatehouse Replacement Project
Contract No. 2016-IWM001

Item #	Special Provision	Item Description	Unit	Contractor Response
5	8-6	Submit Proposed Quality Assurance Professional Name, Resume, Work Examples	-	Attach QA Proposal
6	8-6	Submit Bidder's No. of Work Days for Completion	Days	_____ Work Days
7	8-6	Submit Contractor Experience with similar projects.	-	Attach Contractor Experience
8	8-6	Submit Proposed Designer Name Resumes, Work Examples, PE No.	-	Attach Designer Proposal

(1) THE ABOVE BID SCHEDULE SUBMITTALS MUST ACCOMPANY THE BID. ABSENCE OF THIS PAGE AT THE TIME OF THE BID SUBMITTAL WILL BE GROUNDS FOR BID REJECTION.

SUBCONTRACTOR LIST

**County of Calaveras – Public Works
Bid to the County of Calaveras**

Bidder Name:

The bidder must identify each subcontractor performing work in an amount in excess of ½ of 1-percent of the total bid or \$10,000, whichever is greater (Pub Cont Code 4100). Complete columns 1 and 4 and submit with the bid. Complete columns 2 and 3 and submit with the bid or within 24 hours after the bid opening. Failure to provide complete information in columns 1 through 4 within the time specified will result in a nonresponsive bid.

<u>Column 1: Business Name and Location</u>	<u>Column 2: Bid Item Nos.</u>	<u>Column 3: Percentage of Bid Item Subcontracted</u>	<u>Column 4: Description of Subcontract Work</u>

CONTRACTOR REGISTRATION CERTIFICATION

Pursuant to Labor Code sections 1725.5 and 1771.1, all contractors and subcontractors that wish to bid on, be listed in a bid proposal, or enter into a contract to perform public work must be registered with the Department of Industrial Relations. See [http://www.dir.ca.gov/Public- Works/PublicWorks.html](http://www.dir.ca.gov/Public-Works/PublicWorks.html) for additional information.

No contract will be entered into without proof of the contractor's and subcontractors' current registration with the Department of Industrial Relations to perform public work.

Bidder hereby certifies that it is aware of the registration requirements set forth in Labor Code sections 1725.5 and 1771.1 and is currently registered as a contractor with the Department of Industrial Relations.

Name of Bidder: _____

DIR Registration Number: _____

Bidder further acknowledges: _____

1. Bidder shall maintain a current DIR registration for the duration of the Agreement.
2. Bidder shall include the requirements of Labor Code sections 1725.5 and 1771.1 in its contract with subcontractors and ensure that all subcontractors are registered at the time of bid submittal and maintain registration status for the duration of the Agreement.
3. Failure to submit this form or comply with any of the above requirements may result in a finding that the bid is non-responsive.

Signature: _____

Name and Title: _____

Dated: _____

UNDOCUMENTED ALIENS EMPLOYMENT

Under Public Contract Code §6101, no bidder or contractor is eligible to bid for or receive a public works or purchase contract, who has, in the preceding five years, been convicted of violating a state or federal law respecting the employment of undocumented aliens.

NONCOLLUSION

"NONCOLLUSION DECLARATION TO BE EXECUTED BY BIDDER AND SUBMITTED WITH BID

Under PCC 7106 and 23 USC 112, the bidder declares as follows:

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

VIOLATION OF LAW OR A SAFETY REGULATION

Under Public Contract Code §10162, the bidder must complete under the penalty of perjury, the following questionnaire:
Has the bidder, any officer of such bidder, or any employee of such bidder who has a proprietary interest in such bidder, ever been disqualified, removed, or otherwise prevented from bidding on, or completing a federal, state, or local government project because of a violation of law or a safety Regulation? If so, explain the circumstances.

_____ Yes _____ No

If the answer is yes, explain the circumstances in the following space.

NATIONAL LABOR RELATIONS BOARD

Under Public Contract Code §10232, the contractor swears under penalty of perjury that no more than one final, unappealable finding of contempt of court by a federal court has been issued against the contractor within the immediately preceding two-year period because of the contractor's failure to comply with an order of a federal court which orders the contractor to comply with an order of the National Labor Relations Board.

ANTITRUST LAW

Under Public Contract Code §10285.1 the bidder declares under the penalty of perjury under the laws of California that the bidder has, has not, been convicted within the preceding three years by a court of competent jurisdiction of any charge of fraud, bribery, collusion, conspiracy, or any other act in violation of any state or federal antitrust law in connection with the bidding upon, award of, or performance of, any public works contract, as defined in Section 1101, with any public entity, as defined in Section 1100, including, for the purposes of this article, the Regents of the University of California or the Trustees of the California State University. The term bidder includes any partner, member, officer, director, responsible managing officer, or responsible managing employee thereof.

If the bidder has been convicted of an offense within the past 3 years, provide the conviction details including the date and ultimate resolution of each conviction in the space below:

EQUAL EMPLOYMENT OPPORTUNITY REGULATION CERTIFICATION

Bidder , Proposed Subcontractor , certifies that he has has not , participated in a previous contract or subcontract subject to the equal opportunity clauses, as required by Executive Orders 10925, 11114, or 11246, and that, if required, has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former Presidents Committee on Equal Employment Opportunity, all reports due under the filing requirements.

Notes

- The above CERTIFICATION IS REQUIRED BY THE Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7(b)(1)), and must be submitted by bidders and proposed subcontractors only in connection with contracts and subcontracts which are subject to the equal opportunity clause. Contracts and subcontracts which are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally only contracts or subcontracts of \$10,000 or under are exempt)
- Currently, Standard Form 100 (EEO-1) is the only report required by the Executive Orders or their implementing regulations.
- Prime contractors and subcontractors work have participated in a previous contract or subcontract subject to the Executive Orders and have not filled the required reports should note 41 CFR 60-1.7(b)(1)), prevents the award of contracts and subcontracts unless the Contractor submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

TITLE 49, CODE OF FEDERAL REGULATIONS, PART 29, DEBARMENT AND SUSPENSION CERTIFICATION

Bidder, under penalty of perjury, certifies that, except as noted below, it or any other person associated therewith in the capacity of owner, partner, director, officer, manager:

- Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;
- Has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past 3 years;
- Does not have a proposed debarment pending; and
- Has not been indicted, convicted or has a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past 3 years.

If there are any exceptions to this certification, insert the exceptions in the following space:

COUNTY OF CALAVERAS
DEPARTMENT OF PUBLIC WORKS

BIDDER'S BOND

We, _____ as Principal, and

_____ as Surety are bound unto the COUNTY OF CALAVERAS, State of California, hereafter referred to as "Obligee", in the penal sum of ten percent (10%) of the total amount of the bid of the Principal submitted to the Obligee for the work described below, for the payment of which sum we bind ourselves, jointly and severally,

THE CONDITION OF THIS OBLIGATION IS SUCH, THAT:

WHEREAS, the Principal is submitted to the Obligee, for _____

(Copy here the exact description of work, including location as it appears on the proposal)

for which bids are to be opened at _____ on _____
(Insert place where bids will be opened) (Insert date of bid opening)

NOW, THEREFORE, if the Principal is awarded the contract and, within the time and manner required under the specifications, after the prescribed forms are presented to him for signature, enters into a written contract, in the prescribed form, in conformance with the bid, and files two bonds with the Obligee, one to guarantee faithful performance of the contract and the other to guarantee payment for labor and materials as provided by law, then this obligation shall be null and void; otherwise, it shall remain in full force.

In the event suit is brought upon this bond by the Obligee and judgment is recovered, the Surety shall pay all costs incurred by the Obligee in such suit, including a reasonable attorney's fee to be fixed by the court.

Dated: _____, 20____.

Principal

Surety
By _____
Attorney-in-fact

CERTIFICATE OF ACKNOWLEDGEMENT

State of California
COUNTY OF CALAVERAS _____ §
On this _____ day of _____ in the year 20____ before me
_____, personally appeared _____,
Attorney-in-fact

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument as the attorney-in-fact of _____, and acknowledged to me that he (she) subscribed the name of the said company thereto as surety, and his (her) own name as attorney-in-fact.

(SEAL) _____
Notary Public

**PROFESSIONAL SERVICES AGREEMENT
FOR CONSTRUCTION SERVICES
Calaveras County, California**

THIS AGREEMENT (Agreement) is made and entered into this ____ day of _____, 2017, by and between the County of Calaveras, a political subdivision of the State of California (hereinafter referred to as County) and _____ a Corporation authorized to transact business in California (CA Entity Number _____) (hereinafter referred to as **Contractor**). County and Contractor shall collectively be referred to as "Parties".

OR for out of state or LLC type business

THIS AGREEMENT (Agreement) is made and entered into this ____ day of _____, 20____, by and between the County of Calaveras, a political subdivision of the State of California (hereinafter referred to as County) and **Company Name, LLC** a Nevada Corporation authorized to transact business in California (CA Entity Number C00000000) (hereinafter referred to as **Contractor**). County and Contractor shall collectively be referred to as "Parties".

OR for sole proprietor

THIS AGREEMENT (Agreement) is made and entered into this ____ day of _____, 20____, by and between the County of Calaveras a political subdivision of the State of California (hereinafter referred to as County) and **Individual's Name**, dba **Company Name** (hereinafter referred to as Contractor). County and Contractor shall collectively be referred to as "Parties".

DELETE the other two paragraphs not used

RECITALS

WHEREAS, the County is authorized by Government Code Section 23004 to create Agreements as necessary for the exercise of its powers; and

WHEREAS, the County is authorized by Government Code Section 31000 to enter into Agreements with persons specially trained, experienced, expert and competent to perform specialized services such as construction services; and

WHEREAS, the County wishes to obtain a Contractor to provide such services; and

WHEREAS, the Contractor has represented to the County that it has the necessary training, experience, expertise and competency to provide the services, goods and materials that are described in the Agreement, at a cost to the County as herein specified; that it will be able to perform the herein described services at minimum cost to the County by virtue of its current and specialized knowledge of relevant data, issues, and conditions; and that it will do so in a manner consistent with the furthering of the goals of the County; and

WHEREAS, Contractor understands that the County is relying upon those representations in entering into this Agreement; and

WHEREAS, this agreement provides for four (4) optional annual terms.

NOW, THEREFORE, the County and the Contractor agree as follows:

SECTION 1 FUNDAMENTAL SERVICES AND TERMS (CONSTRUCTION)

The Contractor shall provide construction services (herein referred to as “the services”), including furnishing all materials, as necessary to construct and complete in good, workmanlike and substantial manner and to the satisfaction of the Director of Public Works or the Director’s designee (the Director’s designee shall herein be referred to as the “County Contract Manager”), the work described in the special provisions and the project plans referenced below, including any addenda thereto, and conforming to, as set forth, the Calaveras County Code of Ordinances, the Standard Specifications dated 2010 of the California Department of Transportation, the Amendments to the Standard Specifications dated 10-19-12, the Standard Plans dated 2010 of the California Department of Transportation, and the 2010 Revised Standard Plans.

A. The following are hereby specially referred to and by such reference made a part hereof:

1. The special provisions for the work to be done titled:

**COUNTY OF CALAVERAS
DEPARTMENT OF PUBLIC WORKS
SPECIAL PROVISIONS**

2. Exhibit B, Bid Book completed and signed by the Contractor. All of the terms, contents, and obligations included or discussed, including those endorsements made by signature of the document, are part of this Agreement and shall be enforced or amended in the same manner as any other term of this Agreement.

B. The Contractor shall provide all facilities, equipment, personnel, labor, and materials necessary to provide the services in accordance with this Agreement.

C. In the event of any conflict between any provision of this Agreement and any provision in the exhibits or appendices to this Agreement, or any provision referenced within this Agreement, the Agreement shall prevail.

SECTION 2 COMPENSATION AND REIMBURSEMENT OF EXPENSES (CONSTRUCTION)

A. The Contractor agrees to receive and accept the prices as submitted on their Bid Schedule in the Bid Book (Exhibit B) as full compensation for furnishing all materials and doing all the work contemplated and embraced in this Agreement and for well and faithfully completing the work, and the whole therefor, according to the plans and specifications, and the requirements of the Engineer under them, provided, however, that the total amount of compensation to be paid Contractor shall not exceed \$XX,XXX.XX

- B. The Contractor shall not be entitled to reimbursement for any expenses other than those described by this Section 2.
- C. To the extent that the Contractor is performing other projects for the County at other locations and pursuant to other Agreements, the Contractor shall maintain complete and separate accounting for each project.

SECTION 3 METHOD OF PAYMENT (CONSTRUCTION)

The County pays the Contractor based on Engineer-prepared estimates, which will become due 30 days after the work in place has been accepted as complete by the Engineer.

SECTION 4 REQUEST FOR INFORMATION (CONSTRUCTION)

The Contractor submits a Request for Information (RFI) upon recognition of any event or question of fact arising under the Agreement. The Engineer shall respond to the RFI within 5 days.

SECTION 5 RECORDS RETENTION (CONSTRUCTION)

Project records shall be retained by the Contractor for a minimum of three years from project closeout.

SECTION 6 DISPUTES (CONSTRUCTION)

Disputes between the parties arising out of the services or other terms of this Agreement, which cannot be resolved by negotiation and mutual concurrence between the parties, or through the administrative process provided in the Agreement, shall be resolved by arbitration by application of California law. The venue for the arbitration shall be in Calaveras County.

Public Contract Code § 10240 through 10240.13 provides for the resolution of contract claims by arbitration.

The pendency of a dispute will not excuse the Contractor from full and timely performance in accordance with the terms of this Agreement.

SECTION 7 TERM AND TERMINATION (CONSTRUCTION)

- A. The term of this Agreement shall commence upon execution of this Agreement by the Parties and shall continue until December 31, 2017, unless extended as provided for in the previous paragraph, or terminated as provided for below. The County and Contractor may exercise the option to renew this Agreement for three additional years

upon mutual written consent within 90 calendar days prior to the termination of the first Agreement Year.

- B. All services associated with this Agreement shall be completed to the satisfaction of the County Contract Manager in accordance with the procedure outlined in Section 1.
- C. Should either party fail to substantially perform its obligations in accordance with this Agreement, the other party may notify the breaching party of such breach in writing, describe the breach, and demand that it be cured within 15 calendar days of receipt if the breach is not cured within 15 calendar days of the notice of breach (or any such longer period as may be specified in the notice or otherwise agreed to by the parties), the party that gave notice of breach may unilaterally terminate this Agreement by sending the breaching party notice of termination. The date of termination in this event shall be 15 calendar days after the notice of termination. Notice for the purposes of the subsection shall be as provided in Section 14 below. A party's exercise of the notice and termination rights authorized by this Section shall in no way operate as a waiver or forfeiture of the party's right to seek and recover damages from the breaching party for the breach of this Agreement.
- D. For any other reason other than a breach or failure to perform (which are discussed in the subsection above), either party may unilaterally terminate this Agreement for any reason at any time during its term, by giving 15 calendar days advanced written notice to the other party. The date of termination for this purpose shall be 15 calendar days after notice of termination. Notice for the purposes of this subsection shall be as provided in Section 14 below.
- E. The Contractor shall not be held liable for delays beyond its reasonable control.

***SECTION 8 APPLICABLE LAWS REGARDING PERFORMANCE OF SERVICES
(CONSTRUCTION)***

In the performance of the services required by this Agreement, Contractor shall take reasonable care to comply with all applicable Federal, State, and County statutes, ordinances, regulations, directives and laws. This includes compliance with California prevailing wage, rates, certified payrolls, and payment in accordance with the California Labor Code, Section 1775. The Contractor shall also comply with County Code 5.04, requiring the Contractor obtain a County-issued business license before commencement of services. This Agreement shall be deemed to be executed within the State of California and construed in accordance with and governed by the laws of the State of California.

SECTION 9 NON-DISCRIMINATION IN SERVICES AND BENEFITS

Contractor certifies that any service provided pursuant to this Agreement shall be without discrimination based on color, race, creed, national origin, religion, sex, age, sexual preferences, or physical or mental disability in accordance with all applicable Federal, State and County laws and regulations and any administrative directives established by the County Board of Supervisors or the County Administrative Officer. For the purpose of this Agreement, distinctions on the grounds of color, race, creed, national origin, religion, sex, age, sexual preferences, or physical or mental disability include but are not limited to the following: denying a participant any service or benefit which is different, or is provided in a different manner or at a different time from that provided to other participants under this Agreement; subjecting a participant to segregation or separate treatment in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service or benefit treating a participant differently from others in determining whether the participant has satisfied any admission, enrollment quota, eligibility, membership, or other requirement or condition which individuals must meet in order to be provided any service or benefit; and the assignment of times or places for the provision of services.

SECTION 10 INDEMNIFICATION

- A. The Contractor shall indemnify and hold harmless County, its elected representatives, officers, agents, and employees from and against claims, demands, losses, defense costs (including reasonable attorney fees), expenses or liability of any kind or nature, for personal injury or property damage to the extent arising out of:
1. Any negligent act, error or omission by Contractor, its officers, agents, or employees, in performing the services, responsibilities or duties required of Contractor by this Agreement; or
 2. Any breach of any statutory, regulatory, contractual, or legal duty of any kind related, directly or indirectly, to the services, responsibilities or duties required of Contractor by this Agreement.
- B. Contractor acknowledges and agrees that he/she is an independent Contractor in the performance of this Agreement and is not and shall not be an employee of the County and will defend, indemnify and save harmless the County, its Officers, Agents and Employees from any and all claims or losses for damage from death and/or injury to persons or physical damage of properties resulting from any willful act, fault or negligence of Contractor or its employees in the performance of the services under this Agreement, except for claims or losses due to the negligence, willful acts or breach of this Agreement by the County, its Officers, Agents or Employees.

In providing any defense under this Section, Contractor shall use counsel reasonably acceptable to the County.

SECTION 11 COUNTY'S RESPONSIBILITY

The County shall examine information submitted by the Contractor and shall promptly render decisions that pertain to issues within County's responsibility.

SECTION 12 PUBLIC LIABILITY AND PROPERTY DAMAGE INSURANCE

A. During the term of this Agreement, Contractor shall at all times maintain, at its expense commercial general liability insurance, Workers' Compensation and Employers' Liability insurance as required by the State of California, and automobile liability insurance. The comprehensive general liability insurance shall include broad form property damage insurance.

1. The limits of such insurance shall be no less than \$1,000,000 per occurrence; \$2,000,000 in aggregate for the commercial general liability insurance, \$1,000,000 for the Workers' Compensation/Employers' Liability insurance per accident for bodily injury or disease, (as required by the State of California, see Section 13), and \$1,000,000 combined single limit for each accident for the automobile liability insurance.
2. The above-described policies shall remain in force through the life of this Agreement and shall be payable on a "per occurrence" basis, except for Contractor's professional liability policy, which shall be on a "per claim" basis.
3. The County, its elected representatives, officers, agents, employees, and volunteers shall be named as additional insured on the commercial general and automobile liability insurance policies.
4. Retentions must be declared to and are subject to the approval of the County Risk Manager.
5. Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after 30 days' prior written notice, return receipt requested, has been given to the County Contract Manager.
6. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A-: VII, unless otherwise approved by the County Risk Manager.

7. Any insurance maintained by the County shall apply in excess of, and not contribute with, insurance provided by Contractor's liability insurance policy.
- B. During the term of this Agreement, the Contractor shall at all times maintain, at its expense, professional errors and omission liability insurance in an amount not less than \$100,000 per claim with a \$300,000 annual aggregate limit, covering negligent acts, errors or omissions which may be committed by the Contractor in the performance of its services under this Agreement.
- C. Prior to commencing services pursuant to this Agreement, Contractor shall furnish the County Contract Manager with certificates of insurance reflecting coverage required by this Agreement. The certificates are to be signed by a person authorized by that insurer to bond coverage on its behalf. All certificates are to be received by, and are subject to the approval of, County Risk Manager before work commences. Contractor may use forms provided by the County Risk Manager or, as an alternative, may provide complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications.
- D. During the term of this Agreement, and upon request by the County Contract Manager, Contractor shall furnish the County Contract Manager with original endorsements reflecting renewals, changes in insurance companies and any other documents reflecting the maintenance of the required coverage throughout the entire term of this Agreement. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf.

SECTION 13 WORKERS' COMPENSATION

Contractor shall provide Workers' Compensation coverage as required by State law, and prior to commencing services pursuant to this Agreement shall file the following statement with the County Risk Manager in a form substantially as set forth below.

WORKERS' COMPENSATION CERTIFICATION

I am aware of the provisions of Section 3700 of the California 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 Agreement.

This paragraph is used for a sole proprietor business (no other employees) otherwise delete the red highlighted paragraph only. Note: All three paragraphs remain if the sole proprietor applies.

At the time of execution of this Agreement, Contractor warrants that Company Name is exempt from the California Labor Code provisions regarding workers' compensation insurance because it

has no employees. If Contractor hires an employee during the term of this Agreement, Contractor shall immediately notify and provide a certified Workers' Compensation certificate to the County.

The person executing this certificate on behalf of Contractor affirmatively represents that he/she has the requisite legal authority to do so on behalf of Contractor and that both the person executing this Agreement on behalf of Contractor and Contractor understand that the County is relying on this representation in entering into this Agreement.

Initials: _____

SECTION 14 REPRESENTATIVES; NOTICE

A. Each party shall designate an officer, employee, or other authorized representative to act on the party's behalf with respect to the services. This representative shall have the authority to authorize changes in the scope of services, provided that such are consistent with this Agreement, and shall be available during working hours and as often as may be required to render decisions and to furnish information in a timely manner. Each party has the right to change its representative at any time; provided, however, that a party wishing to change its designated representative shall endeavor to notify the other party in writing not less than ten days before making any such change and, if ten days advance notice is not possible, shall notify the other party in writing as soon as possible thereafter. At the time this Agreement is executed, the Parties' designated representatives shall be as follows:

COUNTY: Jeff Crovitz, PE
 Director of Public Works

CONTRACTOR: Name
 Title

B. All notices shall be deemed to have been given when made in writing and delivered or mailed to the respective representatives of County and Contractor at their respective address as follows:

CONTRACTOR:

COUNTY:
Calaveras County Public Works Department
Jeff Crovitz, PE, Director
891 Mountain Ranch Road
San Andreas, CA 95249

C. In lieu of written notice to the above addresses, any party may provide notices through the use of email or facsimile machines provided confirmation of delivery is obtained at

the time of transmission of the notices and provided the following contact information is used:

TO CONTRACTOR: _____ Phone: _____
Fax No: _____

_____ Phone: _____
Fax No: _____

TO COUNTY: jcrovitz@co.calaveras.ca.us Phone: (209) 754-6402
Fax No: (209) 754-6664

- D. All notices shall be effective upon receipt and shall be deemed received through delivery if personally served or served using facsimile machines, or on the fifth day following deposit in the mail if sent by first class mail.

SECTION 15 CONFLICT OF INTEREST

- A. Contractor shall comply with the laws and regulations of the State of California and County regarding conflicts of interest, including, but not limited to, Section 4 of Chapter 1, Division 4, Title 1 of the California Government Code, commencing with Section 1090, and Chapter 7 of Title 9 of said Code, commencing with Section 87100 including regulations promulgated by the California Fair Political Practices Commission.
- B. Contractor covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of Contractor's obligations and responsibilities hereunder. Contractor further covenants that throughout the performance of this Agreement, Contractor will take reasonable care to ensure that no person having any such interest shall be employed. This covenant shall remain in force until Contractor completes performance of the services required of it under this Agreement.
- C. Contractor agrees that if any fact comes to its attention, which raises any question as to the applicability of any conflict of interest law or regulation, Contractor will immediately inform the County and provide all information needed for resolution of the question.

SECTION 16 COVENANT AGAINST CONTINGENT FEES

Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making this Agreement. For breach or violation of this warranty, the County shall have the right to annul this Agreement without liability or in its

discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

SECTION 17 ASSIGNMENT AND SUBCONTRACTS (CONSTRUCTION)

The services and obligations required of Contractor under this Agreement are not assignable in whole or in part. In addition, Contractor shall not subcontract any portion of the services required of Contractor by this Agreement without the express written consent of the County Contract Manager. If any portion of the services required of Contractor is subcontracted, the subcontractor(s) shall maintain the same insurance as required of Contractor by this Agreement and Contractor shall be fully responsible to the County for all work undertaken by subcontractor(s).

SECTION 18 STATUS OF CONTRACTOR

- A. It is understood and agreed by all the Parties hereto that Contractor is an independent Contractor and that no relationship of employer-employee exists between the County and Contractor. Neither Contractor nor Contractor's assigned personnel shall be entitled to any benefits payable to employees of the County. Contractors hereby indemnifies and holds the County harmless from any and all claims that may be made against the County based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement or any services provided pursuant of this Agreement.
- B. It is further understood and agreed by all the Parties hereto that (1) except as specifically authorized by this Agreement, neither Contractor nor Contractor's assigned personnel shall have any right to act on behalf of the County in any capacity whatsoever as an agent; and (2) neither Contractor nor Contractor's assigned personnel shall have any right to bind the County to any obligation whatsoever.
- C. It is further understood and agreed by all the Parties hereto that Contractors must issue any and all forms required by Federal and State laws for income and employment tax purposes, including W-2 and 941 forms, for all of Contractor's assigned personnel.
- D. There are no third party beneficiaries of this Agreement, and no one except the Parties to this Agreement may seek to enforce its terms.

SECTION 19 AMENDMENT (CONSTRUCTION)

The County Contract Manager has the authority to authorize Contract Change Orders. Such modifications must be agreed to in writing and signed by the Contractor and the County Contract Manager. Any modification that results in a change to the total compensation as set forth in Section 2 of this Agreement may be amended only with the approval of the appropriate authority as determined by the County's Purchasing Code and by written instrument signed by the County and Contractor.

SECTION 20 WAIVER, BREACH AND SEVERABILITY

- A. Any waiver of or failure by the County or any of its officers, agents or employees or the failure of the County or its officers, agents or employees to take action with respect to any right conferred by this Agreement to the County shall not be deemed to be a waiver of any additional or subsequent right conferred to the County by this Agreement or of any other term, covenant or condition of this Agreement by the County.
- B. If any provision of this Agreement is declared or found to be illegal, unenforceable, or void, both Parties shall be relieved of all obligations arising under such provision, and the remainder of this Agreement shall not be affected by such declaration or finding and each provision not so affected shall be enforced to the fullest extent permitted by law.

SECTION 21 AUTHORIZED REPRESENTATIVE

The person executing this Agreement on behalf of Contractor affirmatively represents that she/he has the requisite legal authority to enter into this Agreement on behalf of Contractor and to bind Contractor to the terms and conditions of this Agreement. Both the person executing this Agreement on behalf of Contractor and Contractor understands that the County is relying on this representation in entering into this Agreement.

SECTION 22 PUBLIC RECORDS ACT

Upon its award, this Agreement (including all Exhibits) shall be subject to disclosure pursuant to the California Public Records Act.

SECTION 23 ADDITIONAL PROVISIONS

- A. Where there is a doubt as to whether a provision of this document is a covenant or a condition, the provision shall carry the legal effect of both. Should the County choose to excuse any given failure of Contractor to meet any given condition, covenant or obligation (whether precedent or subsequent), described in this Agreement, that decision shall not be deemed a waiver by the County of its right to pursue a remedy for any subsequent failure of Contractor to meet that condition, covenant, or obligation or any other obligation described in this Agreement. All conditions, covenants, and obligations shall continue to apply no matter how often County may choose to excuse one or more failures by Contractor to perform them.
- B. Except where specifically stated otherwise in this document, the provisions in this document benefit the County and Contractor only. They are not intended to, nor shall they be interpreted or applied to, give any enforcement rights to any other person (including a corporation) which might be affected by the performance or non-performance of this Agreement, nor do the parties hereto intend to convey to anyone any

legitimate claim of entitlement with the meaning and rights that phrase has been given by case law.

SECTION 24 ENTIRE AGREEMENT

- A. This Agreement constitutes the entire Agreement between the County and Contractor with respect to REQUEST FOR BIDS ROCK CREEK GATEHOUSE REPLACEMENT PROJECT. In the event of a dispute between the parties as to the language of this Agreement or the construction or meaning of any term hereof, this Agreement shall be deemed to have been drafted by the parties in equal parts so that no presumptions or inferences concerning its terms or interpretation may be construed against any party to this Agreement.

- B. This Agreement may be signed in one or more counterparts, each of which shall constitute an original and all of which taken together shall constitute one and the same instrument.

CONTINUED ON NEXT PAGE

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year set forth above.

a _____ Corporation/LLC/Sole Proprietor

COUNTY OF CALAVERAS
DEPARTMENT OF PUBLIC WORKS

Name, Title

Jeff Crovitz, PE, Director

Date

Date

ATTEST:

COUNTY OF CALAVERAS

Clerk of the Board of Supervisors of the
County of Calaveras

Chair, Board of Supervisors

Date

Date

Approved As To Form:

Date

County Counsel