



STATE OF CALIFORNIA, COUNTY OF SIERRA
BOARD OF SUPERVISORS
AGENDA
REGULAR MEETING

Lee Adams, Vice-Chair, District 1

P.O. Box 1 - Downieville, CA 95936 - 530-289-3506 - supervisor1@sierracounty.ca.gov

Peter W. Huebner, District 2

P.O. Box 349 - Sierra City, CA 96125 - 530-565-6055 - phuebner@sierracounty.ca.gov

Paul Roen, District 3

P.O. Box 43 - Calpine, CA 96124 - 530-565-6048 - supervisor3@sierracounty.ca.gov

Jim Beard, Chair, District 4

P.O. Box 1140 - Loyalton, CA 96118 - 530-565-6092 - jbeard@sierracounty.ca.gov

Sharon Dryden, District 5

P.O. Box 246 - Loyalton, CA 96118 - 530-913-9218 - sdryden@sierracounty.ca.gov

The Sierra County Board of Supervisors will meet in regular session commencing at 9:00 a.m. on February 4, 2020 in the Board of Supervisors' Chambers, Courthouse, Downieville, CA. This meeting will be recorded for posting on the Board of Supervisors' website at www.sierracounty.ca.gov.

NOTICE

If requested, this agenda can be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 and the Federal Rules and Regulations adopted in implementation thereof. Persons seeking an alternative format should contact the Clerk of the Board for further information. In addition, a person with a disability who requires a modification or accommodation, in order to participate in a public meeting should telephone or otherwise contact the Clerk of the Board as soon as possible and at least 48 hours prior to the meeting. The Clerk of the Board may be reached at 530-289-3295 or at the following addresses:

Heather Foster
Clerk of the Board of Supervisors
County of Sierra
100 Courthouse Square, Room 11
P.O. Drawer D
Downieville, CA 95936
clerk-recorder@sierracounty.ca.gov

All items posted on the agenda, including under correspondence, may be acted upon by the Board of Supervisors. However, matters under committee reports and department manager's reports may be briefly addressed by the Board or Staff but no action or discussion shall be undertaken on any item not appearing on the posted agenda. (GC 54954.2)

The Board of Supervisors may hold a Closed Session as the agenda schedule permits.

REGULAR AGENDA

1. 9:00 A.M. STANDING ORDERS

- Call to Order
- Pledge of Allegiance
- Roll Call
- Approval of Consent Agenda, Regular Agenda and Correspondence to be addressed by the Board

2. PUBLIC COMMENT OPPORTUNITY

Matters under the jurisdiction of the Board not on this posted agenda may be addressed by the general public during the Public Comment Opportunity time. No action may be taken or substantive discussion pursued on matters not on the posted agenda. Public comment is regulated by the Sierra County Board of Supervisors' Rules and Procedures. You may obtain a copy of the Public Comment rules from the Clerk. The Board limits public comment to three minutes per person and not more than three individuals addressing the same subject.

3. COMMITTEE REPORTS & ANNOUNCEMENTS

Board members will report on committee meetings and/or activities. Board members or members of the public may ask questions for clarification but no action will be taken.

Documents:

[BoardMeeting_Highlights_January_15_2020Memo_FINAL.pdf](#)

4. DEPARTMENT MANAGERS' REPORTS & ANNOUNCEMENTS

Department Managers may provide brief reports on activities within their departments. Board members or members of the public may ask questions for clarification but no action will be taken.

5. FOREST SERVICE UPDATE

Update by District Ranger on items that may affect the County of Sierra.

6. SUPERIOR COURT - ANN MENDEZ

- 6.A. Discussion regarding the creation of a Juvenile Justice Commission in order to comply with state law with regards to the nomination and appointment of a new Chief Probation Officer and authorization to retain CPS HR for executive recruitment services in an amount not to exceed \$17,000.

Documents:

[Chief Probation Officer Recruitment.pdf](#)

7. INFORMATION SYSTEMS - JEREMY MILLER

- 7.A. Resolution updating the Sierra County Information Technology (IT) Policy.

Documents:

[IT Policy.pdf](#)

8. AUDITOR / TREASURER-TAX COLLECTOR - VAN MADDOX

- 8.A. Resolution approving sale of tax defaulted property subject to the Tax Collector's Power to Sell.

Documents:

[ROP for Tax Sale Approval 2020.pdf](#)

9. PLANNING / BUILDING - TIM BEALS

- 9.A. Discussion and direction with regard to California's AB 1236 (Chapter 598, Statutes of 2015), Electric Vehicle Charging Station Law.

Documents:

[AB1236 Discussion.pdf](#)

- 9.B. Status of SB 2 Grant Application for County Housing Element.

Documents:

[REAP.Item.pdf](#)

10. PUBLIC WORKS/TRANSPORTATION - TIM BEALS

- 10.A. Presentation of bids and adoption of resolution for award of Public Works Contract to Escheman Construction for the Ridge Road Storm Damage Repair, Federal Aid Project Nos. 32LO(483) & 32LO(492).

Documents:

[Ridge Award Item.pdf](#)

- 10.B. Presentation of bids and adoption of resolution for award of Public Works Contract to Judd Buick Construction, Inc. for the Mountain House Road Storm Damage Repair, Federal Aid Project Nos. 32LO(484), 32LO(485), 32LO(486), & 32LO(487).

Documents:

[Mountain House Award.Item.pdf](#)

- 10.C. Amendment to Sierra County Agreement 2018-016 with Bruce Boyd, Architecture & Planning to extend termination date and update rate sheet for Downieville Community Hall.

Documents:

[Boyd.Item.pdf](#)

- 10.D. Discussion and status report on progress on Department of Conservation Sustainable Agricultural Lands and Conservation Easement Guidelines and on the progress over

budget concerns with regard to the State Watermaster Service Area administration for Sierra Valley.

Documents:

[AG Issues Report.pdf](#)

10.E. Status report on the Sierra Brooks Water System Project.

Documents:

[SB Water Status Report.pdf](#)

10.F. Second reading and adoption of an ordinance amending the Sierra Brooks Water System regulations in order to conform County regulations to the requirements of the new Sierra Brooks Water System Project.

Documents:

[SB Water Ordinance.pdf](#)

10.G. Resolution of Appreciation honoring Mr. Dennis Marsh, County Road Superintendent, and recognizing his retirement from County Service effective December 5, 2019.

Documents:

[Marsh Appreciation.pdf](#)

11. BOARD OF SUPERVISORS

11.A. Update by the Sierra County Fire Safe and Watershed Council and approval of addendum to Master Agreement for Funding Firewise Community Projects to be undertaken by the Sierra County Firesafe and Watershed Council, Agreement No. 2012-111, for a pilot project to provide a bin at the Sierra City Transfer Station for green waste. (SUPERVISOR ROEN)

Documents:

[SCFWC.pdf](#)

12. TIMED ITEMS

12.A. 10:00 AM EMERGENCY MEDICAL SERVICES TAX MEASURE

Continued discussion/direction to staff regarding special election for emergency medical services (EMS) fee/tax for the Downieville Fire Protection District emergency medical services. (SUPERVISOR ADAMS)

Documents:

[EMS Tax Measure.pdf](#)

13. CONSENT AGENDA

Items placed on the Consent Agenda are of a routine and non-controversial nature and

are approved by a blanket roll call vote. At the time the Consent Agenda is considered, items may be deleted from the Consent Agenda by any Board member or Department Manager and added to the Regular Agenda directed by the Chairman.

- 13.A. Resolution affirming surplus status of 2 vehicles and authorizing Downieville Fire Department to conduct an extrication training with them prior to recycling. (PUBLIC WORKS)

Documents:

[Surplus Vehicle.pdf](#)

- 13.B. Resolution approving grant application and identifying the County as a cooperative partner and collaborator for a project and grant being pursued by the Sierra Business Council regarding biomass utilization and development in Sierra County. (PUBLIC WORKS)

Documents:

[Biomass.Item.pdf](#)

14. **CORRESPONDENCE LOG**

- 14.A. Letter from the Wildlife Conservation Board (WCB) regarding the Sierra Valley Conservation Area, Expansion 5 (Genasci) project.

Documents:

[Sierra County, Sierra Valley Conservation Area, Expansion 5 \(Genasci\).pdf](#)

- 14.B. Letter from the Wildlife Conservation Board (WCB) regarding the Sardine Meadow Restoration project.

Documents:

[Sierra County, Sardine Meadow Restoration.pdf](#)

- 14.C. Letter from the Wildlife Conservation Board (WCB) regarding the Haskell Peak Meadows Restoration Project.

Documents:

[Sierra County, Haskell Peak Meadows Restoration.pdf](#)

- 14.D. Letter from Janis and Stan Hardeman requesting clarification of the Sierra County General Plan as it relates to their ten-acre parcel of property located east of Loyaltown on Highway 49.

Documents:

[Hardeman Letter.pdf](#)

ADJOURN



To: RCRC Board of Directors
From: Greg Norton
President and CEO
Date: January 22, 2020
Re: RCRC Board Meeting Highlights (January 15, 2020)

President's Report

Greg Norton, President and CEO, announced three RCRC organizational promotions:

- Lisa McCargar, Chief Financial Officer/Chief Operating Officer
- Craig Ferguson, Senior Vice President
- Paul A. Smith, Senior Vice President Governmental Affairs

Mr. Norton stated that the promotions will better align the organization's core operating functions, and provide for ongoing cross-sector understanding and communication to best serve RCRC and its affiliate organizations.

Administrative Matters

RCRC Resolution 20-01: RCRC Board Travel Policy – ACTION

Lisa McCargar, Chief Financial Officer/Chief Operating Officer, presented the 2020 RCRC Board Travel Policy, which was adopted by the RCRC Board of Directors.

The memo can be accessed [here](#). The Resolution can be accessed [here](#). RCRC's 2020 Expense Reimbursement Form can be accessed [here](#).

RCRC Resolution 20-02: Board of Directors Code of Conduct – ACTION

Paul A. Smith, Senior Vice President Governmental Affairs, presented the 2020 Board of Directors Code of Conduct, which was adopted by the RCRC Board of Directors.

The memo can be accessed [here](#). The Code of Conduct can be accessed [here](#).

Governmental Affairs

Overview of the State Budget

Mr. Smith and Governmental Affairs staff provided an overview of the Governor's 2020-21 Proposed Budget and its implications for California's rural counties.

The Rural Rundown, RCRC's in-depth look at the proposal, details of RCRC's advocacy efforts on specific issue items, and an insider perspective into the reasoning and rationale behind specific elements of the proposal, can be accessed [here](#).

Also, prior to the unveiling of the Governor's 2020-21 proposed Budget, RCRC sent a letter to the Newsom Administration outlining RCRC's rural funding priorities for the year. The letter can be accessed [here](#).

Consideration of 2020 RCRC Sponsored Legislation – ACTION

Mr. Smith provided the RCRC Board of Directors with details on two 2020 Legislative Session proposals for potential RCRC sponsorship/co-sponsorship. The proposals addressed interstate cannabis-export, and Alcohol Beverage Control (ABC) licenses in Mariposa County.

The RCRC Board of Directors approved the sponsorship/co-sponsorship of both 2020 Legislative Session proposals. The memo can be accessed [here](#).

Adoption of RCRC's 2020 Policy Principles – ACTION

Mr. Smith presented proposed revisions to RCRC's Policy Principles as received by members of the RCRC Board of Directors, and developed by RCRC staff.

The memo can be accessed [here](#). RCRC's 2020 Policy Principles, as adopted, can be accessed [here](#).

Forest Management and Wildfire Update

Staci Heaton, Senior Regulatory Affairs Advocate, provided an update on current efforts in the legislature and various state and federal agencies to address California's persistent catastrophic wildfire events. Topics addressed included homeowners insurance availability and affordability, the Governor's Executive Order on price gouging for recovering communities, and the California Vegetation Treatment Program EIR.

The memo can be accessed [here](#).

Legislative Committee

Federal Issues Update

Mr. Smith provided an update on a number of RCRC priority issues being addressed at the federal level, including a two-year reauthorization of the Secure Rural Schools program, and full funding for the Federal Payments in Lieu of Taxes program. Other federal priorities addressed in the memo include: cannabis and hemp banking, rural broadband and telecommunications, disaster relief, the State and Local Tax deduction cap, the United States-Mexico-Canada Agreement, and infrastructure.

The memo can be accessed [here](#).

Regulatory Committee

California Public Utilities Commission Wildfire Proceedings Update

Ms. Heaton, John Kennedy, Legislative Advocate, and Leigh Kammerich, Regulatory Affairs Coordinator, provided a summary of the progress of several California Public Utilities Commission (CPUC) proceedings impacting how utilities undertake wildfire

hazard mitigation and de-energization of power lines to prevent high-severity wildfires, as well as the administration of the Self-Generation Incentive Program (SGIP) and pending Public Safety Power Shutoff legislation.

The memo can be accessed [here](#).

Industrial Hemp Regulations

Arthur Wylene, General Counsel, provided a summary on a recently initiated rulemaking from the California Department of Food and Agriculture, and an Interim Final Rule from the United States Department of Agriculture, on commercial Industrial Hemp production prior to the 2020 growing season.

The memo can be accessed [here](#).

California Air Resources Board Advanced Clean Trucks Regulations

Ms. Heaton provided an overview of the California Air Resources Board's (CARB) establishment of sales requirements on truck manufacturers and reporting requirements for fleet operators of light/medium duty and heavier trucks, and a summary of their potential impacts on RCRC member counties.

The memo can be accessed [here](#).

Water and Natural Resources Committee

Water issues Update

Mary-Ann Warmerdam, RCRC Senior Legislative Advocate, provided an update on a number of issues involving California water policy. At the state level, Ms. Warmerdam provided an update on the Water Resiliency Initiative Portfolio, the General Obligation Bonds to fund resource programs, and the Safe and Affordable Drinking Water Fund. At the federal level, The Water Quality Protection and Job Creation Act, The Drought Resiliency and Water Supply Infrastructure Act, the SAVE Water Resources Act, the Water Resources Research Amendments Act, the Water Justice Act, and the Friant-Kern Canal Fix were all discussed.

The memo can be accessed [here](#).

Sustainable Groundwater Management Act Update

Ms. Warmerdam provided an update on the Sustainable Groundwater Management Act (SGMA) and its implementation in various regions throughout the state.

The memo can be accessed [here](#).

Please refer to the Board Packet and Supplemental Packet for further details related to the items above, as well as all items covered during the January 2020 RCRC Board of Directors meeting. The January 2020 Board Packet can be accessed [here](#).

**Sierra County
Board of Supervisors'
Agenda Transmittal &
Record of Proceedings**

MEETING DATE:
February 4, 2020

TYPE OF AGENDA ITEM:
 Regular Timed
 Consent

DEPARTMENT: Sierra County Superior Court
APPROVING PARTY: Ann Mendez, Court Executive Officer
PHONE NUMBER: 530-289-3295

AGENDA ITEM: Discussion regarding the creation of a Juvenile Justice Commission in order to comply with state law with regards to the nomination and appointment of a new Chief Probation Officer and authorization to retain CPS HR for executive recruitment services in an amount not to exceed \$17,000.

SUPPORTIVE DOCUMENTS ATTACHED: Memo Resolution Agreement Other
 See attached memo and CPS HR proposal

BACKGROUND INFORMATION: see attached

FUNDING SOURCE: Probation
GENERAL FUND IMPACT: No General Fund Impact
OTHER FUND:
AMOUNT: \$17,000 N/A

ARE ADDITIONAL PERSONNEL REQUIRED?

 Yes, -- --
 No

IS THIS ITEM ALLOCATED IN THE BUDGET? Yes No

IS A BUDGET TRANSFER REQUIRED? Yes No

SPACE BELOW FOR CLERK'S USE

BOARD ACTION:

- Approved
- Approved as amended
- Adopted
- Adopted as amended
- Denied
- Other
- No Action Taken

- Set public hearing
For: _____
- Direction to: _____
- Referred to: _____
- Continued to: _____
- Authorization given to:

Resolution 2020- _____
 Agreement 2020- _____
 Ordinance _____
 Vote:
 Ayes:
 Noes:
 Abstain:
 Absent:
 By Consensus

COMMENTS:

CLERK TO THE BOARD

DATE

TO: SIERRA COUNTY BOARD OF SUPERVISORS

FROM: Judge Yvette Durant and Ann Mendez, CEO
Sierra County Superior Court

DATE: January 29, 2020

RE: Juvenile Justice Commission Update

As you know, Sierra County's current Chief of Probation is retiring, and his last day of work will be April 30, 2020. Thus, both the Court and the County must act in a timely fashion to ensure this position is filled sooner rather than later. In that regard, we have done some preliminary research and outreach and provide you the following information:

- Per Government Code Section 27770 – A county's chief probation officer "**shall be** nominated by the juvenile justice commission ...in the same manner as the presiding judge...shall prescribe, and shall thereafter be appointed by the presiding judge." (emphasis added)
- Per Welfare and Institutions Code Section 225, et seq. – "In each county there **shall be** a juvenile justice commission consisting of not less than 7 and no more than 15 citizens." (WIC 225, emphasis added.) Further, two members shall be between the ages of 14 and 21 years (unless it is determined no such members in this age group could serve out a term). Members are appointed and sworn by the presiding judge of the court, and any vacancies are to be filled by the same methodology. While there is reference in WIC 226 of a regional commission which could be formed by two adjacent county board of supervisors agreeing and establishing such a regional commission, none currently exists nor does the court believe such could be established in a reasonable period of time if at all.
- Without taking a large amount of time and space in this document to set forth the duties of a juvenile justice commission, suffice it to say the effectively operate akin to a grand jury yet only in the realm of juvenile justice (aka juvenile delinquency). For example, the commission has the authority and duty to: inspect any jail or lockup used to confine a juvenile in the county for more than 24 hours; inspect any group home existing in the county; recommend changes to the administration of juvenile justice to any person charged with such responsibilities and even publish such recommendations.
- "Members of a juvenile justice commission shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties. Such reimbursement shall be made by the county of appointment or, in lieu of such actual and necessary expenses the board of supervisors may provide that the members of the commission shall be paid not to exceed the sum of twenty-five dollars (\$25) per meeting not exceeding two meetings per month." WIC 231.

By way of brief background, Sierra County did have a Juvenile Justice Commission; however, it does not appear such commission continues in existence. The last agenda and minutes of the commission relate back to a meeting date of November 5, 2009. Accordingly, Sierra County is presently out of compliance with state law mandating the existence of a juvenile justice commission.

Thus, please be advised, the Court will be working to create a new juvenile justice commission in Sierra County forthwith such that the County can be in compliance with relevant California law, as well as be in a position to properly nominate and then appoint a new chief probation officer.

TO: SIERRA COUNTY BOARD OF SUPERVISORS

FROM: Judge Yvette Durant and Ann Mendez, CEO
Sierra County Superior Court

DATE: January 29, 2020

RE: Chief of Probation Recruitment – Retainment of Recruiter Services

As you know, Sierra County's current Chief Probation Officer is retiring, and his last day of work will be April 30, 2020. Thus, both the Court and the County must act in a timely fashion to ensure this position is filled. In that regard, we have reached out to a well familiar resource to inquire about assistance – **CPS HR Consulting**.

Per the CPS proposal, a complete copy of which is attached hereto, CPS HR Consulting specializes in the recruitment and selection of key professionals for cities, counties, special districts, and non-profits. The proposed executive search process is designed to provide Sierra County with the full range of services required to ensure the ultimate selection of a new Chief Probation Officer who is uniquely suited to Sierra County's needs. The CPS HR team can begin work immediately upon receipt of a fully-executed contract and expects to have the leading candidates vetted within three months. **The cost for the recruitment will not exceed \$17,000** (\$12,000 for the recruitment and approximately \$5,000 for the advertising, brochures, and other associated expenses i.e. travel.)

It is believed the Board of Supervisors will view the requested fee as economical in light of the fact this is a department head position in the county, CPS proposes to do all the "heavy lifting" and the cost relative to the salary for this position is quite reasonable. Moreover, it is our understanding the probation department has funds which can be used for payment to the recruiter without jeopardizing the operations of the department and/or the services it provides to the citizens of Sierra County.

Due to the statutorily mandated process in appointing a new Chief Probation Officer for Sierra County, the Court is respectfully requesting the Board of Supervisors authorize the retainment of CPS HR Consulting and execution of a formal contract for services upon its presentment. This will enable the juvenile justice commission and presiding judge to work with a recruiter with a proven track record who is now well known to Sierra County such that the most qualified and well-suited candidate(s) can be vetted and put forth to the Juvenile Justice Commission for nomination.

PROPOSAL

Superior Court State of CA, County of Sierra

Executive Recruitment Services for Chief Probation Officer

SUBMITTED BY:
MELISSA ASHER
Sr. Practice Leader, Products and Services

CPS HR Consulting
2450 Del Paso Road, Suite 220
Sacramento, CA 95834
P: 916-471-3358
masher@cpshr.us
Tax ID: 68-0067209

www.cpshr.us



January 22, 2020

Ann Mendez, Chief Executive Officer
Superior Court of CA, County of Sierra
100 Courthouse Square
Downieville, CA 95936

Submitted via email to: amendez@sierracourt.org

Subject: Executive Recruitment Services for Chief Probation Officer

Dear Ms. Mendez:

CPS HR Consulting (CPS HR) is pleased to have the opportunity to submit a proposal to assist the Superior Court of CA, County of Sierra (County) with the recruitment of a new Chief Probation Officer. We are uniquely qualified to undertake this effort as we have vast experience in assisting public agencies with executive search, screening, and placement.

We understand that each agency is unique, and our extensive experience allows us to tailor our process to specifically meet your needs. Our work with local government agencies throughout the United States gives us an in-depth understanding of government operations, programs, and services.

Each recruitment is an opportunity to shape and prepare your organization for the future. We understand how important this transition is for you and are perfectly placed to assist you in this endeavor. Once this project begins, we will work with the County to tailor our process to highlight this exciting opportunity and attract the best possible candidates.

It is our commitment to work in partnership with your organization to a successful result.

Thank you for the opportunity to be considered for this assignment. Should you have questions or comments about the information presented in this proposal, **please contact Pam Derby at pderby@cpsshr.us or (916) 471-3126.**

Sincerely,



Melissa Asher
Senior Practice Leader, Products and Services

Table of Contents

Qualifications	1
Recruitment Experts	1
Our Approach	3
Key Stakeholder Involvement	3
The County’s Needs	3
Commitment to Communication	3
Aggressive, Proactive, and Robust Recruitment.....	3
Our Process	4
Phase I - Develop Candidate Profile and Recruitment Strategy	4
Phase II – Aggressive, Proactive, and Robust Recruitment.....	5
Project Timeline	7
Professional Fees	8
Professional Services.....	8

Qualifications

CPS HR Consulting has been assisting organizations with their talent management needs since 1985. We have unique expertise in delivering HR management and consulting services, employment testing, and assessment services to government agencies throughout North America. Our core competency is our knowledge of and expertise in the public sector. As a public agency, we understand the challenges and issues facing our client base. As a self-supporting public entity, we also understand the need for innovative yet practical results. CPS HR can provide expertise that is unique because we share with our clients a common perspective. There is no competitor in the industry that can make this claim.

Recruitment Experts

CPS HR specializes in the recruitment and selection of key professionals for cities, counties, special districts, and non-profits. Working in partnership with the governing body or selection team, we develop customized search strategies that focus on locating and recruiting qualified candidates who match the agency's unique needs. Our wealth of recruitment experience has been gained through **more than 17 years** of placing top and mid-level executives in public agencies throughout the United States.

- **Seasoned Executive Recruiters.** Our recruiters possess a high level of expertise in recruiting and placing executive-level professionals. Our staff of experts includes an exceptional group of full-time employees as well as a full complement of subject matter experts, intermittent employees, and part-time employees with a variety of public and private sector experience.
- **Detailed Needs Assessments.** We conduct a detailed needs assessment to identify 1) future organizational direction; 2) challenges facing the position; 3) the working style and organizational climate; and 4) required core and job specific competencies as well as personal and professional characteristics.
- **Success Recruiting Non-Job Seeking Talent.** We recognize that the very best candidates for some types of positions may not be looking for a career change, therefore, our recruitment team takes a very aggressive approach to identify and recruit such candidates.
- **Satisfied Clients.** *Our executive search client satisfaction rating averages 4.6 on a scale of 5.* While many companies talk about client satisfaction, how many measure the impact of that through assessing client satisfaction by distributing written surveys and tying the results of these surveys to their performance management system? CPS HR Consulting does. A client satisfaction survey is sent at the end of every engagement requesting feedback on the quality of our staff, deliverables, and the overall consulting relationship.

- **Vast Pool of Public Agency Contacts.** CPS HR maintains a database of candidates and an extensive network of external resources to leverage for executive-level positions. We utilize our vast pool of public and non-profit contacts to deliver a strong list of competitive candidates who will be well prepared to assist you in the accomplishment of your specific mission and goals.
- **Diversity Sensitivity.** CPS HR encourages applicant diversity and incorporates a variety of activities to attract the best available candidates. We have successfully recruited and placed minority and female candidates for a variety of executive-level positions.
- **Retention/Success Rate.** CPS HR continues all executive recruitments until a candidate is placed. Our success rate is tied to the longevity of the candidates we place, currently more than 91% of our placements are still in their position after two years.

Our Approach

Key Stakeholder Involvement

The Court Executive Officer (CEO), on behalf of the Board of Supervisors (Board) and the County of Sierra, must be intimately involved in the search for a new Chief Probation Officer (CPO). Our approach assumes her direct participation in key phases of the search process. At the discretion of the CEO and Board, other key stakeholders may also be invited to provide input for the development of the candidate profile.

The County's Needs

A critical first step in a successful executive search is for the CEO and Board to define the professional and personal qualities required of the CPO. CPS HR has developed a very effective process that will permit the CEO to clarify the preferred future direction for the County; the specific challenges the County is likely to face in achieving this future direction; the working style and organizational climate the CEO and Board wishes to establish with the CPO; and ultimately, the professional and personal qualities required of the CPO.

Commitment to Communication

Throughout the recruitment process, we are strongly committed to keeping you fully informed of our progress. We will collaborate with you to provide updates on the status of the recruitment via your preferred method of communication (phone conference, email, etc.).

We place the highest level of importance on customer service and responding in a timely manner to all client and candidate inquiries. Our previous clients and candidates have expressed a sincere appreciation for our level of service and responsiveness to the management of the recruitment process. As a result, we have many long-term relationships with clients that have led to opportunities to assist them with multiple recruitments.

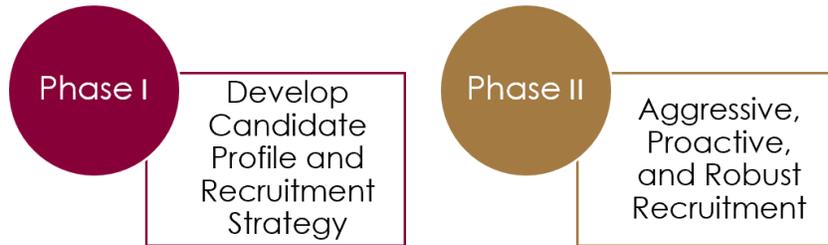
CPS HR's communication continues once you have selected the new CPO. We will contact the CEO and the newly appointed CPO within six months of appointment to ensure an effective transition has occurred.

Aggressive, Proactive, and Robust Recruitment

We take an aggressive approach in identifying and recruiting the best available candidates. There are those candidates who would gladly rise to the professional challenge and apply for this position; however, some of the best candidates are often not actively seeking a new position and may only consider a change once we present them with your opportunity. Evoking the sense of vision and opportunity in qualified persons is among the responsibilities of CPS HR, and we pride ourselves in our efforts to reach the best available potential candidates.

Our Process

Our proposed executive search process is designed to provide the County with the full range of services required to ensure the ultimate selection of a new CPO who is uniquely suited to the County's needs. We offer **Outreach Only** or **Partial Recruitment Services** if a full recruitment is not currently needed by the County.



Phase I: As desired by the County, our consultant will meet with the CEO and other County representatives to ascertain the County's needs and ideal candidate attributes, to target our search efforts, and maximize candidate fit with the County.

Phase II: The recruitment process is tailored to fit the County's specific wants and needs, with targeted advertising, combined with contacts with qualified individuals from our extensive database.

Below is a breakdown of the services included in each recruitment option followed by the full description of each phase.

Task	Description	Outreach	Partial
Phase I - Develop Candidate Profile and Recruitment Strategy			
1	Finalize Schedule		X
2	Hold Key Stakeholder Meetings	X	X
3	Develop Candidate Profile	X	X
4	Develop Recruitment Brochure		X
Phase II – Aggressive, Proactive, and Robust Recruitment			
1	Place Ads		X
2	Identify and Contact Potential Candidates	X	
3	Review Application Materials		X
4	Conduct Screening Interviews		X
5	Submit Client Report		X
6	Client Meeting to Select Semifinalists		X
7	Notify Candidates		X

Phase I - Develop Candidate Profile and Recruitment Strategy

Task 1 - Review and Finalize Executive Search Process and Schedule

Task 2 - Key Stakeholder Meetings

Task 3 - Candidate Profile and Recruitment Strategy Development

Task 4 – Develop Recruitment Brochure

The first step in this engagement is a thorough review of the County’s needs, culture and goals; the executive search process; and the schedule. CPS HR is prepared to meet with key stakeholders to obtain input in developing the ideal candidate profile and to assist us in understanding key issues and challenges that will face a new CPO. Activities will include:

- Identifying key priorities for the new CPO and the conditions and challenges likely to be encountered in achieving these priorities.
- Describing the type of working relationship the CEO and Board wishes to establish with the CPO.
- Generating lists of specific competencies, experiences, and personal attributes needed by the new CPO in light of the discussions above.
- Discussing recruitment and selection strategies for the CEO’s consideration to best produce the intended results.

CPS HR will provide a summary to the County stemming from these activities as an additional source of information for developing the candidate profile and selection criteria.

Following the completion of the workshop session, CPS HR will work with a professional graphic artist to design a recruitment brochure and present it to the County for review prior to printing.

Phase II – Aggressive, Proactive, and Robust Recruitment

Task 1 – Identify and Contact Potential Candidates

Task 2 – Resume Review and Screening Interviews

Task 3 – CEO/Board Selects Finalists

The recruitment process is tailored to fit the County’s specific wants and needs, with targeted advertising, combined with personal contacts with qualified individuals from our extensive database.

CPS HR will prepare, submit for your approval, and publish advertisements in appropriate magazines, journals, newsletters, job bulletins, and websites to attract candidates on a nationwide, regional, local or targeted basis based on the recruitment strategy.

As a consulting firm that interacts with hundreds of public sector executives during engagements, we have a cadre of individuals who we inform of recruitments, both to increase the visibility of the opening and to attract appropriate individuals who fit the special needs of our client. Communication with these professionals ensures that an accurate picture of the requirements of the job is apparent and proliferated throughout their professional networks.

CPS HR will prepare an email distribution list containing prospective candidates and referral sources. These individuals will receive a link to the CPO brochure along with a personal invitation to contact CPS HR should they have any questions about the position.

CPS HR maintains a comprehensive, up-to-date database of industry leaders and experienced professionals; however, we do not rely solely upon our current database. We also conduct research to target individuals relevant to your specific needs and expectations to ensure that we are thorough in our efforts to market this position to the appropriate audience and to garner a diverse and quality pool of candidates.

We will:

- Convey a strong sense of the purpose and strategy of the County. For many talented individuals, understanding these aspects is one of the key motivators to compete in such an environment.
- Provide guidance and resources to candidates regarding the area's cost of living, mean and median housing prices, higher education opportunities, K-12 education information, and other aspects of interest to those who are considering relocating to the area.
- Actively seek highly qualified candidates who may be attracted by the prospect of collaboration with other departments, providing exceptional leadership to the County or continuing to ensure the public confidence in the integrity of the County.

CPS HR will directly receive and initially screen all resumes. This screening process is specifically designed to assess the personal and professional attributes the County is seeking and will include a thorough review of each candidate's resume, and if applicable, supplemental questionnaire responses and other supporting materials. CPS HR will spend extensive time ascertaining each candidate's long-term career goals and reasons why the candidate is seeking this opportunity, as well as gaining a solid understanding of the candidate's technical competence and management philosophy. We will gather data on any other unique aspects specific to this recruitment based upon the candidate profile, as well as conduct internet research on each candidate interviewed.

CPS HR will prepare a written report that summarizes the results of the recruitment process and recommends candidates for further consideration by the CEO and Board. Typically, the report will recommend five to eight highly qualified candidates and will include resumes and a profile on each interviewee's background. CPS HR will meet with the CEO and Board to review this report and to assist them in selecting a group of finalists for further evaluation.

Project Timeline

The project team CPS HR has selected is prepared to begin work upon receipt of a fully-executed contractual agreement. All search activities up to and including the selection of a new CPO can be completed in about 10 to 12 weeks. The precise schedule will depend on the placement of advertising in the appropriate professional journals, and the ability to schedule, as quickly as possible, the initial meeting. A proposed schedule of major milestones is presented below.

Task Name	Month 1				Month 2				Month 3			
	1	2	3	4	5	6	7	8	9	10	11	12
Initial Meeting/Candidate Profile	➤											
Draft Brochure		➤										
Brochure Approved/Printed Place Ads			➤									
Aggressive Recruiting							➤					
Final Filing Date							➤					
Preliminary Screening									➤			
Present Leading Candidates to County										➤		
Weeks	1	2	3	4	5	6	7	8	9	10	11	12

Professional Fees

Professional Services

Our professional fixed fee covers all CPS HR services associated with **Outreach Only and Phases I and II** of the recruitment process, including the necessary field visits.

Professional Fixed Fee & Reimbursable Expenses*	
Outreach Only	\$5,000
Partial Recruitment	\$12,000
Reimbursable Expenses <u>Approximate</u> recruitment costs include: <ul style="list-style-type: none">■ Advertising■ Brochure■ Other recruitment expenses such as supplies, shipping, and travel	NTE \$5,000
Outreach Only Not -to Exceed Total	\$10,000
Partial Recruitment Not-to-Exceed Total	\$17,000

**Professional fees would be billed and paid monthly. Advertising and Marketing materials can be added at an additional cost.*



We thank you for your consideration of our proposal. We are committed to providing high quality and expert solutions and look forward to partnering with the County of Sierra in this important endeavor.

**Sierra County
Board of Supervisors'
Agenda Transmittal &
Record of Proceedings**

MEETING DATE: February 4, 2020	TYPE OF AGENDA ITEM: <input checked="" type="checkbox"/> Regular <input type="checkbox"/> Timed <input type="checkbox"/> Consent
--	---

DEPARTMENT: Information Systems Department
APPROVING PARTY: Jeremy Miller, CTO
PHONE NUMBER: 530-289-2910

AGENDA ITEM: Resolution updating the Sierra County Information Technology (IT) Policy.

SUPPORTIVE DOCUMENTS ATTACHED: Memo Resolution Agreement Other

BACKGROUND INFORMATION:

FUNDING SOURCE:
GENERAL FUND IMPACT: No General Fund Impact
OTHER FUND:
AMOUNT: \$ N/A

ARE ADDITIONAL PERSONNEL REQUIRED?

 Yes, -- --
 No

IS THIS ITEM ALLOCATED IN THE BUDGET? Yes No

IS A BUDGET TRANSFER REQUIRED? Yes No

SPACE BELOW FOR CLERK'S USE

<p>BOARD ACTION: <input type="checkbox"/> Approved <input type="checkbox"/> Approved as amended <input type="checkbox"/> Adopted <input type="checkbox"/> Adopted as amended <input type="checkbox"/> Denied <input type="checkbox"/> Other <input type="checkbox"/> No Action Taken</p>	<p><input type="checkbox"/> Set public hearing For: _____ <input type="checkbox"/> Direction to: _____ <input type="checkbox"/> Referred to: _____ <input type="checkbox"/> Continued to: _____ <input type="checkbox"/> Authorization given to: _____</p>	<p>Resolution 2020- _____ Agreement 2020- _____ Ordinance _____ Vote: Ayes: Noes: Abstain: Absent: <input type="checkbox"/> By Consensus</p>
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COMMENTS:

CLERK TO THE BOARD

DATE

BOARD OF SUPERVISORS, COUNTY OF SIERRA, STATE OF CALIFORNIA

**RESOLUTION UPDATING THE SIERRA COUNTY
INFORMATION TECHNOLOGY (IT) POLICY**

Resolution 2020

WHEREAS, the Board of Supervisors previously adopted an Electronic Media and Use Policy/Information Technology Policy pursuant to resolutions 2009-067, 2016-034 and 2017-117, which policy governs the appropriate uses, processes, and procedures by which county employees shall use the County's electronic media and devices, and

WHEREAS, electronic media and devices are a topic of constantly evolving practical, technical and legal requirements and best practices which requires continual review and updating, and

WHEREAS, the attached updated Information Technology Policy has been reviewed and edited by staff.

NOW, THEREFORE, BE IT RESOLVED that the Sierra County Board of Supervisors, County of Sierra, State of California does the attached Information Technology Policy, dated January, 2020, is hereby adopted by the County Sierra. This Policy shall supersede any prior County policy on the same subject matter.

ADOPTED by the Board of Supervisors of the County of Sierra on the _____ day of _____, 2020, by the following vote:

AYES: Supervisors
NOES: None
ABSTAIN: None
ABSENT: None

COUNTY OF SIERRA

JIM BEARD, CHAIRMAN
BOARD OF SUPERVISORS

ATTEST:

APPROVED AS TO FORM:

HEATHER FOSTER
CLERK TO THE BOARD

DAVID PRENTICE
COUNTY COUNSEL

Sierra County

Information Technology Policy



January, 2020

Table of Contents

Purpose	2
General	2
1. Employee Owned Equipment	3
2. Electronic Communications	3
3. Login Credentials	4
4. Software	4
5. Data Integrity	4
6. Incidental Personal Use	4
7. Casual Remote Access	5
8. Remote Access/VPN (Virtual Private Network) Policy	5
9. Privacy Limits	7
10. Public Records Act Litigation	7
11. Confidentiality	8
12. Restrictions	8
13. Inappropriate Use	8
14. Attorney-Client Privilege	9
15. Discipline	10
16. Document Retention	10

COUNTY OF SIERRA

Information Technology Policy

Purpose

Information and the systems, networks, and software necessary for processing are essential Sierra County assets that must be appropriately protected against all forms of unauthorized access, use, disclosure or modification, Security and controls for County information and associated assets (County IS Assets) must be implemented to help ensure privacy, confidentiality, data integrity, availability, accountability, and appropriate use. This policy establishes the minimum standard to which all departments must adhere. Departments may, with the approval of the Information Systems Department (IS Department), enhance the minimum standard based on their unique requirements. This policy governs all Electronic Communications Resources including, but not limited to, the Internet, E-mail, voice-mail, cellular telephones, pagers, personal digital assistants, smartphones, Blackberry devices, computers/laptops, telecommunications devices, video and audio equipment, wireless networks, data systems telecommunications equipment, transmission devices, data processing or storage systems, computer systems, servers, networks, input/output and connecting devices, software, County-related social media, and documentation that supports electronic communications services ("Electronic Communications Resources").

General

The County of Sierra encourages the use of electronic communications resources to share information in support of its mission of public service and to conduct its business. The County owns and operates a variety of computers, network, electronic mail (hereinafter "e-mail"), Internet access and voice communication systems for use by its employees. These systems are provided to employees at the County's expense to assist the employees in carrying out the business of the County.

Social media tools and websites such as Twitter, Facebook, LinkedIn as well as services such as Instant Messaging/Chat, Comments, Wikis, Blogs, Groups, Skype, and VoIP are similar to e-mail as communication methods and for the purpose of this policy, are equivalent in all aspects to e-mail. As such, social media services/tools/technologies including instant messaging are inclusive to all references to e-mail in this policy.

Department use of social media technology must conform to the policies, protocols and procedures contained, or referenced, herein.

Social media applications used by Departments must be approved by the Board of Supervisors prior to use.

Employees are not guaranteed access to County-owned devices or networks, and are not guaranteed permission to use personal devices for County business. Remote access is not guaranteed and requires pre-approval.

1. Employee Owned Equipment

Employee privately owned equipment (cell/smart-phones, note/net-books, tablets, computers and other current and future devices) are increasingly being used to access County-owned systems, network, information and communications and to conduct County business.

The policies apply to all county business activities and communications conducted on employee owned equipment and/or while employees are working and utilizing personally owned equipment. Employees should be aware that privately owned equipment may, as part of litigation or other legal processes, be subject to seizure for review of the county owned data and therefore, the County prefers that employees use county-owned equipment for conducting county business.

Should the County need to review an employee's privately owned equipment for county purposes, the County will comply with all state and federal laws and regulations regarding employer access to employee-owned equipment.

2. Electronic Communications

The County's email system is the official communication tool for County business. An official email address is established and assigned by the County to each employee. All County communications sent via email will be sent to this address. County employees must use the official County email, instead of their private email address (such as Yahoo, Google, Hotmail, etc.) when communicating County business via email. Electronic Communications Resources must be used in compliance with applicable statutes, regulations, and County's policies including those that require a work environment free from discrimination and harassment. Electronic communications should conform to the same standards of propriety and respect as any other verbal or written communication at the County. Employees are expected to use common sense and judgment to avoid any communication which is disrespectful, offensive or illegal.

The County, as the provider of access to its Electronic Communications Resources, reserves the right to specify how those resources will be used and administered to comply with this policy. It is important to realize that the message content sent from the County's account reflects upon the County (positively or negatively) to those who receive the message. Electronic communications to recipients on systems outside of County pass through systems and networks not managed by the County. The privacy and confidentiality of these messages is, therefore, not assured. In addition, some delivery methods and networks impose legal restrictions regarding the nature of messages allowed. Users are expected to comply with all such regulations. Employees and other users of the Electronic Communications Resources may create criminal and civil liability for themselves and the County by using outside or third party systems in an offensive, defamatory or illegal manner and in such event employees and other users may be subject to disciplinary action up to and including termination.

It is the County's responsibility to ensure availability of a device for the employee to be able to access this account. It is the employee's responsibility to check the account for county communications on a regular and frequent basis.

3. Login Credentials

Employees are required to keep their assigned personal login credentials that include username and password, private and safe and not share it with anyone. This password will be required to meet complexity requirements put in place by the Information Systems Department and will be reset annually unless stricter requirements are required.

4. Software

Only software that has been purchased or authorized by the County of Sierra Information Systems Department may be loaded onto County owned computers or other communication equipment. All software vendors must complete a Vendor Application Information Questionnaire and return it to the Information Systems Department for approval prior to commitment of purchase. To assure that all software is licensed and virus free, all software that is to reside on the LAN or personal computer disk drives will be installed by the Information Systems Department. All software or data brought in from outside the County (whether via physical media or via download) must be scanned by an updated County approved anti-virus and anti-malware software program before being loaded onto any County computer system. Downloading programs from outside sources such as the Internet must be pre-approved by Information Systems Department. All such programs will be scanned for virus and malware. Such programs will be necessary and related to County business.

All equipment connected to the County of Sierra network must be authorized by the Information Systems Department prior to attaching to the network or associated peripherals.

5. Data Integrity

Users are responsible for maintaining the integrity of County data. Users may not knowingly or through negligence cause County data to be modified or corrupted in any way that compromises its accuracy or prevents authorized access.

6. Incidental Personal Use

Electronic Communication Resources are provided by the County to facilitate the performance of County work. Under no circumstance other than that which is expressly permitted, should an employee use any County resource for personal use. Incidental personal use is permitted for reasons of personal necessity so long as employee use of the systems are made during the time the employee is relieved from duty (i.e. during a break, during the employee's lunch hour, or before or after the employee's work shift), and only so long as the Department Head determines that the operation of the Department is not being compromised or disrupted.

Incidental personal use should be minimal, and should not:

- interfere with the County's operation of Electronic Communications Resources;
- interfere with the user's employment or other obligations to the County, or
- burden the County with noticeable incremental costs. Incidental use of the County's Electronic Communications Resources should clearly indicate that the use is personal.

Users of Electronic Communications Resources will not give the impression that they are representing, giving opinions, or otherwise making statements on behalf of the County unless appropriately authorized to do so. The County is not responsible for any loss or damage incurred by an individual as a result of personal use of the County's Electronic Communications Resources.

7. Casual Remote Access

Modern business practices often provide for an employee to be able to check electronic communications tools from home or other non-work sites, which will be referred to as "Casual Remote Access". Communication tools are voice mail, email, electronic calendar or other similar tools. Casual Remote Access does not qualify for over-time compensation as Casual Remote Access is voluntary and not at the direction of management.

- This section is intended to facilitate casual remote access, when appropriate, and to define the restrictions and responsibilities of employees and others who are authorized casual remote access. Managers and other employees, who are not subject to overtime pay, may have fewer limitations to casual remote access than other employees. Contractors, consultants, non-County agencies, and others who are authorized to use the County's computer networks, may be subject to these provisions.
- The County's Email System can be accessed from non-work sites through a specific secure website via a web browser or other electronic communications tools. The Department Head, or his/her designee, will establish the appropriate restrictions for the employee's casual remote access to e-mail. In some situations, the department might expect an employee who is out of the area at a work-related training or conference to check email, similar to expectations to check and respond to voice mail as part of the normal work day. In some situations, during non-work time an employee may be authorized, for their own convenience and in a non-pay status, to access e-mail, voice mail, or their schedule for minimal amounts of time. The department has flexibility to authorize an employee to work or work overtime, via casual remote access; however, this policy is not intended to replace the County's Telecommuting Policy.
- The process for accessing the County's email or other electronic tools has been set up by the Information Systems Department, who reserves the right to discontinue the service if the need arises.

8. Remote Access/VPN (Virtual Private Network) Policy

This section contains the standards for connecting to Sierra County's network from a remote location. These standards are designed to minimize the potential liability exposure to the County, which may result from unauthorized use of County resources, such as the loss of sensitive or confidential data, violation of intellectual property, damage to the County's public image, damage to critical County internal systems or damage to third-party or County property.

This policy applies to all employees, volunteers, contractors, consultants, non-County agencies, and others who are authorized to access the computer networks. This policy applies to remote access

connections used to do work on behalf of Sierra County, including reading or sending email and viewing intranet web resources.

- The following definitions are used in this section:
 - A. VPN - Virtual Private Network - a means of connecting a remote computer to a network across the Internet by creating a secure encrypted tunnel.
 - B. DMZ - Demilitarized Zone - a network segment on a Firewall that is outside the internal network (lower security) and inside the Internet (higher security), used for placing devices that may need to be accessed by the Internet (Web servers, etc.).
 - C. Remote Access - a means of accessing core network resources from a site not physically connected, accomplished by Dialup connection, or a DSL, or Cable modem, with a VPN tunnel.
- The following are the limitations on remote access:
 - A. VPN access is permitted to County employees only and only with authorization.
 - B. No employee will be provided with VPN access without specific written consent from their Department Head and the Information Systems Department.
 - C. Remote access will be granted for authorized County work only. All remote access to the County network will be accomplished via Cisco AnyConnect, a secure remote access method (including, but not limited to, strong authentication, Virtual Private Network (VPN), controlled dial-in/dial-out, firewall demilitarized zone (DMZ)).
 - D. Internet access is disabled while connected via VPN. There is no exception to this limitation.
 - E. Access from a remote site to a County network that contains sensitive or restricted information may require extended identification and authentication procedures as well as additional authorization.
 - F. Access to County resources will only be allowed from County owned and controlled computers, unless otherwise authorized by the Information Systems Department. All authorized employees accessing the County network from their privately-owned computers will exercise due diligence in ensuring that their systems (both hardware and software) are free from computer viral and malware infection, precluded unauthorized use, including unauthorized use by non-County employees, or by County employees who have not been specifically authorized for such access.
 - G. When an authorized user terminates employment or transfers to another department or office, all existing remote access services will be terminated. Remote access will have to be re-justified and re-established for any new County position. County owned hardware must be returned and software permanently deleted from privately-owned equipment.
 - H. VPN Access must be renewed and authorized annually.

Department Heads are responsible for contacting the Information Systems Department to receive/complete/file the Virtual Private Network Use Agreement.

Once the required Agreement has been filed with the Information Systems Department, the Information Systems Department will provide the authorized employee virtual access to the network. If the requesting department does not have a County-owned and County-monitored computer available, the Department will contact the Information Systems Department to determine if one is available elsewhere. Departments that have County-owned and County-monitored computers must ensure those computers are plugged into the County network weekly to receive security and software upgrades.

9. Privacy Limits

Users of County e-mail and communication systems should be aware that:

- (1) their e-mail/communications are not personal and private;
- (2) their email/communications may be (but are not necessarily) saved for future reference; and
- (3) their email/communications may be seen by persons other than the original addressee.

Subject to the restriction regarding obtaining County Counsel's permission under certain circumstances, the County of Sierra reserves the right to monitor or review e-mail messages and any information stored or transmitted on its equipment without advance notice to the users thereof. All such communications are the property of the County of Sierra, and may be accessed. The County reserves the right to specify how the County's network resources will be used and administered to comply with this policy and all documents. Other than those going to, or from, or within County Counsel's Office, designation upon such communications (e.g. "personal", "private" or "confidential") will not result in the document receiving any greater degree of privacy or confidentiality than that which would normally be given such communication and no employee should have an expectation of privacy in any message or communication he or she creates, receives, stores, sends, or deletes from any of the systems.

Employees should not communicate their private, privileged, or confidential information, including but not limited to personal attorney client communications, financial or medical information and other privileged information, via the County's Electronic Communications Resources. Employees who do communicate their private, privileged or confidential information via the County's Electronic Communications Resources will be deemed to have waived any privilege or privacy rights in those communications, even where those communications are made via personal password protected accounts using the County's Electronic Communications Resources.

Additionally, the County may be required to produce information transmitted or stored on its Electronic Communications Resources pursuant to a court order, subpoena, or statute.

10. Public Records Act and Litigation

The California Public Records Act requires the County to disclose specified public records. In response to requests for such disclosure, it may be necessary to examine electronic communications records that users may consider to be personal to determine whether they are public records that are subject to disclosure.

All communications transmitted via the County's Electronic Communications Resources, whether or not related to personal or confidential matters, are subject to monitoring, at the County's discretion. Communications under these systems may also be discoverable during the course of legal proceedings.

Nothing in this policy will be construed to allow disclosure to the public under the Public Records Act or discovery production in a civil lawsuit of otherwise privileged or confidential information. An employee will consult with his/her department head regarding department policy before sending information subject to state and federal privacy laws (e.g., Health Insurance Portability and Accountability Act, "HIPAA").

For further information, please refer to the County of Sierra Public Records Act Policy for Private Devices and Accounts dated September, 2017.

11. Confidentiality

California law requires that certain information be treated as confidential and not be distributed to others inside or outside the County who do not have authorization to view such information. Some examples of confidential information are: personnel records, medical records, internal investigations, on-going civil and criminal investigations, criminal records, information relating to litigation or potential litigation, attorney-client communications, information relating to labor negotiations, or information relating to confidential real estate negotiations. Confidential information should not be sent, forwarded or accessed by individuals or entities not authorized to receive that information and should not be sent, forwarded or accessed by County employees not authorized to view such information. Employees shall exercise caution in sending confidential memoranda, letters or phone calls, because of the ease with which such information can lose confidentiality by inadvertent or intentional diversion or re-transmission by others.

Employees who access, via his/her device, Protected Health Information (PHI), and/or Personally Identifiable Information (PII), and/or any other data deemed by policy or statute to require encryption, are required to maintain the settings on his/her device such that data encryption is enabled at all times.

12. Restrictions

The information sources accessible via the Internet are worldwide and constantly growing in kind and number. It is not possible for any Internet access provider to fully manage the types of information accessible by its systems and users, especially with regard to content limitations. Nonetheless, the County reserves the right to restrict access to any data source, at its sole discretion. These restrictions do not constitute an implication of approval of other non-restricted sources.

13. Inappropriate Use

Without exhausting all the possibilities, the following are examples of inappropriate use of the County's Electronic Communications Resources and County telephone, cell phone and voice mail systems:

- Creating, viewing, accessing, downloading, storing, or exposing others unwillingly, either through carelessness or intention, to material which is offensive, obscene or in poor taste. This includes information which could create an intimidating, offensive or hostile work environment;
- Any use that may, for a reasonable person, create or further a hostile attitude or give offense on the basis of race, color, religion, national origin, citizenship, ancestry, marital status, gender, disability, age, veteran's status or sexual orientation;

- Communicating confidential County or HIPAA classified information to unauthorized individuals within or outside of County;
- Sending messages or information which is in conflict with applicable law or County policies, rules or procedures;
- Attempting to access unauthorized data or break into any County or non-County system;
- Engaging in theft or the unauthorized copying of electronic files or data;
- Performing acts that are wasteful of computing resources or that unfairly monopolize resources to the exclusion of others is prohibited. These acts include, but are not limited to sending mass mailings or chain letters and creating unnecessary network traffic;
- Intentionally misrepresenting one's identity for improper or illegal acts;
- Engaging in unlawful activities;
- Engaging in commercial activity or activity for financial gain, not under the auspices of the County;
- Engaging in recreational use of the County's Electronic Communications Resources that interferes with the ability of the employee or other users to conduct County work. This includes but is not limited to downloading or uploading software, games, or shareware. Employees are also prohibited from downloading and using instant messenger (IM) for recreational use;
- Advertising or soliciting for commercial ventures, personal business, or to perform an illegal or malicious act; and
- Illegal copying of computer software protected by copyright.

If an employee receives an unreasonable amount of personal email or email that is inappropriate as described above, the employee is required to immediately give notice to the sender(s) of the email to cease further issuance of the subject emails. Knowledge of passwords, loopholes, or other means of gaining access to network, data, communication, application, server, document, website, device, and associated computer security systems will not be used to damage computing information or resources, obtain extra information or resources, take information or resources from another user, gain unauthorized access to information and resources, or otherwise make use of information or resources for which proper authorization has not been given.

Accessing data on the County computer systems unless expressly authorized is strictly prohibited.

14. Attorney-Client Privilege

In order to preserve the attorney-client and attorney work-product privileges, e-mail communication to, from, or within County Counsel's office may not be opened, except by a person to whom it was properly addressed or with County Counsel's express permission. Employees who send an e-mail containing confidential information to County Counsel should be aware that the confidential nature of such e-mails is subject to challenge in the courts and that preservation of these privileges requires limiting disclosure of the e-mail to essential recipients only. These limitations on monitoring do not apply to incoming or outgoing Internet e-mail for automated virus and spam protection, or Intrusion Detection Systems, nor do these limitations apply to monitoring by Sierra County Information Systems Department either externally or internally for Security or Quality of Service purposes as long as such e-mail are not opened and read by a person who has not received the County Counsel's permission.

15. Discipline

Employees may be subject to disciplinary action for using the Electronic Communications Resources in a manner other than for their intended purposes, or in a manner that violates applicable laws, rules and policies. Any violation of this policy will be considered grounds for disciplinary action up to and including termination, and/or civil and/or criminal prosecution under County, State, or Federal laws.

16. Document Retention

Electronic files, documents, and e-mail messages should be treated the same as paper documents with regard to the laws pertaining to a public entity's retention and destruction of documents and records (Government Code Section 26200, et seq.). Accordingly, employees and elected officers may have an obligation to retain certain documents and e-mail communications for a specified period of time. Employees should seek the advice of their Department heads in order to ascertain the specific time requirements, which apply to the documents generated, received, and/or maintained by their departments. An e-mail communication will be deleted after 6 months or as soon as practicable from the electronic communications system by an elected officer or an employee (recipient and the sender) without preserving the informational content of such communication, or any portion thereof, in archival form unless: 1) a law expressly requires such communication to be kept; 2) preservation of such communication is necessary or convenient to the discharge of the elected officer's or the employee's duties and such communication was made or retained for the purpose of preserving its informational content for future County use or reference; 3) in the event a public inspection request is made pursuant to the Public Records Act, or a demand by subpoena or court order is received by the County, for any communication in existence at the time such request or demand is received, or 4) whenever the potential for litigation arises, or has arisen, with respect to the matter communicated in the e-mail. For purposes of this section, retention of e-mails falling into the four specified categories will be accomplished by either saving the communication on the elected officer's or the employee's user account by archiving the file to portable document format (.pdf) or by printing a hard copy of the communication on a printer and depositing it in a folder named "archives".

An e-mail saved in this manner may be destroyed pursuant to Government Code §26202 when it becomes more than two (2) years old. In addition, each department may have set a destruction of records schedule for various types of records. An e-mail falling into a category that is to be kept longer than two (2) years will be printed and the hard copy placed in the appropriate category's file for retention beyond the two (2) year period hereby established for e-mails in general.

**Sierra County
Board of Supervisors'
Agenda Transmittal &
Record of Proceedings**

MEETING DATE: February 4, 2020	TYPE OF AGENDA ITEM: <input checked="" type="checkbox"/> Regular <input type="checkbox"/> Timed <input type="checkbox"/> Consent
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DEPARTMENT: Auditor APPROVING PARTY: Van Maddox PHONE NUMBER: 530-289-3286

AGENDA ITEM: Resolution approving sale of tax defaulted property subject to the Tax Collector's Power to Sell.

SUPPORTIVE DOCUMENTS ATTACHED: Memo Resolution Agreement Other

BACKGROUND INFORMATION: This is a request for authorization to sell one parcel that is eligible for tax sale. This parcel has at least 5 years of delinquent property taxes. The owners have repeatedly been offered installment plans as a way to clear up the delinquent taxes. The anticipated date of sale is May 1, 2020. All owners and lien holders will be contacted prior to the sale as required by law to encourage payment of the taxes prior to the sale and to notify them of their rights if the sale of their property occurs. The costs of the sale are added to the amount of the minimum bid and are reimbursed from the sale proceeds so no additional budget allocation is needed. The purpose of the tax sale is to recover defaulted taxes on delinquent parcels and place sold parcels in a tax producing status, thereby increasing tax revenues for local services.

FUNDING SOURCE:
GENERAL FUND IMPACT: No General Fund Impact
OTHER FUND:
AMOUNT: \$ N/A

ARE ADDITIONAL PERSONNEL REQUIRED?

 Yes, -- --
 No

IS THIS ITEM ALLOCATED IN THE BUDGET? Yes No

IS A BUDGET TRANSFER REQUIRED? Yes No

SPACE BELOW FOR CLERK'S USE

<p>BOARD ACTION:</p> <input type="checkbox"/> Approved <input type="checkbox"/> Approved as amended <input type="checkbox"/> Adopted <input type="checkbox"/> Adopted as amended <input type="checkbox"/> Denied <input type="checkbox"/> Other <input type="checkbox"/> No Action Taken	<input type="checkbox"/> Set public hearing For: _____ <input type="checkbox"/> Direction to: _____ <input type="checkbox"/> Referred to: _____ <input type="checkbox"/> Continued to: _____ <input type="checkbox"/> Authorization given to: _____	Resolution 2019- _____ Agreement 2019- _____ Ordinance _____ Vote: Ayes: Noes: Abstain: Absent: <input type="checkbox"/> By Consensus
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COMMENTS:

CLERK TO THE BOARD

DATE

**BOARD OF SUPERVISORS
COUNTY OF SIERRA
STATE OF CALIFORNIA**

**Resolution of Approval to Sell Tax-Defaulted
Property Subject to the Tax Collector's Power to Sell**

Resolution No. 2020-____

**Tax Collector's Request for Approval to
Sell Tax-Defaulted Property Subject to the Power to Sell:**

Notice is hereby given of my intention to sell at public auction and/or at a sealed bid sale, at the Tax Collector's discretion, for the stated minimum price, the tax-defaulted properties listed on Exhibit "A". These properties have been tax-defaulted for at least five years and are subject to the Tax Collector's power to sell. They will be sold in accordance with Chapter 7 of Part 6 of Division 1 of the California Revenue and Taxation Code. Also, in the event that any parcel does not sell at the initial offering, I request your approval to re-offer the parcels at a reduced minimum bid within 90 days of the original sale date.

Your approval and direction by resolution to sell is respectfully requested.

Van Maddox, Auditor-Treasurer-Tax Collector

RESOLUTION OF APPROVAL BY BOARD OF SUPERVISORS

Pursuant to the Notice and Request for Approval to sell Tax-Defaulted Property Subject to the Power of Sale, be it resolved that approval for the sale is hereby granted. The Tax Collector is authorized to sell the property described in Exhibit "A" as provided for by law pursuant to Chapter 7 of Part 6 of Division 1 of the California Revenue and Taxation Code.

PASSED AND ADOPTED by the Board of Supervisors of the County of Sierra on 4th day of February, 2020 by the following vote:

**AYES:
NOES:
ABSENT:
ABSTAIN:**

COUNTY OF SIERRA

**Jim Beard, Chairman
Board of Supervisors**

Attest:

Approved as to form:

Heather Foster, Clerk of the Board

David Prentice, County Counsel

Exhibit A

<u>Item No.</u>	<u>APN</u>	<u>Assessee</u>	<u>Acreage</u>	<u>Assessed Value</u>	<u>Minimum Bid</u>
1.	016-210-019-000	Century Land LLC	.55	4,391	\$ 8,600.00

**Sierra County
Board of Supervisors'
Agenda Transmittal &
Record of Proceedings**

MEETING DATE: February 4, 2020	TYPE OF AGENDA ITEM: <input checked="" type="checkbox"/> Regular <input type="checkbox"/> Timed <input type="checkbox"/> Consent
--	---

DEPARTMENT: Planning Department
APPROVING PARTY: Tim H. Beals, Director
PHONE NUMBER: 530-289-3251

AGENDA ITEM: Discussion and direction with regard to California's AB 1236 (Chapter 598, Statutes of 2015), Electric Vehicle Charging Station Law.

SUPPORTIVE DOCUMENTS ATTACHED: Memo Resolution Agreement Other
Email Correspondence from Marina Espinoza, Legislative Analyst, Housing, Land Use & Transportation California State Association of Counties®

BACKGROUND INFORMATION: AB 1236 required jurisdictions with a population of 200,000 or more residents to adopt an ordinance for an expedited, streamlined permitting process for EV charging stations by September 2016 (and those with populations less than 200,000 residents by September 2017). It also required local agencies to adopt a checklist of all requirements with which EV charging stations must comply to be eligible for expedited review.

FUNDING SOURCE:
GENERAL FUND IMPACT: No General Fund Impact
OTHER FUND:
AMOUNT: \$ N/A

ARE ADDITIONAL PERSONNEL REQUIRED?

Yes, -- --
No

IS THIS ITEM ALLOCATED IN THE BUDGET? Yes No

IS A BUDGET TRANSFER REQUIRED? Yes No

SPACE BELOW FOR CLERK'S USE

<p>BOARD ACTION:</p> <input type="checkbox"/> Approved <input type="checkbox"/> Approved as amended <input type="checkbox"/> Adopted <input type="checkbox"/> Adopted as amended <input type="checkbox"/> Denied <input type="checkbox"/> Other <input type="checkbox"/> No Action Taken	<input type="checkbox"/> Set public hearing For: _____ <input type="checkbox"/> Direction to: _____ <input type="checkbox"/> Referred to: _____ <input type="checkbox"/> Continued to: _____ <input type="checkbox"/> Authorization given to: _____	Resolution 2020- _____ Agreement 2020- _____ Ordinance _____ Vote: Ayes: Noes: Abstain: Absent: <input type="checkbox"/> By Consensus
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COMMENTS:

CLERK TO THE BOARD

DATE

From: Marina Espinoza <mespinoza@counties.org>
Sent: Wednesday, January 15, 2020 3:41 PM
Subject: Compliance with Electric Vehicle Charging Station Law

To: County Planning Directors
County Legislative Coordinators

From: Chris Lee, Legislative Representative
Marina Espinoza, Legislative Analyst

Re: Compliance with Electric Vehicle Charging Station Law

The Governor's Office of Business and Economic Development (GO-Biz) has developed and published the [Electric Vehicle Charging Station Permit Streamlining Map](#), which shows electric vehicle (EV) charging station permit streamlining across the state and tracks whether jurisdictions are in compliance with California's [AB 1236 \(Chapter 598, Statutes of 2015\)](#).

Based on this analysis, a number of counties may be out of compliance with AB 1236. CSAC encourages counties to review the map to see if they are in compliance with this law, especially since there may be additional legislation on this topic in 2020. CSAC plans to host an informational webinar with GO-Biz and the League of California Cities on this topic in the upcoming weeks.

AB 1236 required jurisdictions with a population of 200,000 or more residents to adopt an ordinance for an expedited, streamlined permitting process for EV charging stations by September 2016 (and those with populations less than 200,000 residents by September 2017). It also required local agencies to adopt a checklist of all requirements with which EV charging stations must comply to be eligible for expedited review.

In July 2019, GO-Biz released the [Electric Vehicle Charging Station Permitting Guidebook](#) as a resource to help local agencies as they work to streamline EV charging stations in their jurisdictions.

Please reach out if you have any questions.

Marina Espinoza
Legislative Analyst
Housing, Land Use & Transportation
California State Association of Counties®
(916) 650-8185 desk | (916) 217-5525 cell
mespinoza@counties.org | www.counties.org

**Sierra County
Board of Supervisors'
Agenda Transmittal &
Record of Proceedings**

MEETING DATE: February 4, 2020	TYPE OF AGENDA ITEM: <input checked="" type="checkbox"/> Regular <input type="checkbox"/> Timed <input type="checkbox"/> Consent
--	---

DEPARTMENT: Planning Department
APPROVING PARTY: Tim H. Beals, Director
PHONE NUMBER: 530-289-3251

AGENDA ITEM: Status of SB 2 Grant Application for County Housing Element.	
SUPPORTIVE DOCUMENTS ATTACHED: <input type="checkbox"/> Memo <input type="checkbox"/> Resolution <input type="checkbox"/> Agreement <input checked="" type="checkbox"/> Other Email from Housing & Community Development dated January 24, 2020.	
BACKGROUND INFORMATION: Sierra County is identified as an eligible applicant with an maximum award amount of \$121,517.00. No formal notice of award has been made.	
FUNDING SOURCE: Regional Early Action Grant Program (REAP)	
GENERAL FUND IMPACT: No General Fund Impact	
OTHER FUND:	
AMOUNT: \$ N/A	
ARE ADDITIONAL PERSONNEL REQUIRED? <input type="checkbox"/> Yes, -- -- <input checked="" type="checkbox"/> No	IS THIS ITEM ALLOCATED IN THE BUDGET? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No IS A BUDGET TRANSFER REQUIRED? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

SPACE BELOW FOR CLERK'S USE

BOARD ACTION: <input type="checkbox"/> Approved <input type="checkbox"/> Approved as amended <input type="checkbox"/> Adopted <input type="checkbox"/> Adopted as amended <input type="checkbox"/> Denied <input type="checkbox"/> Other <input type="checkbox"/> No Action Taken	<input type="checkbox"/> Set public hearing For: _____ <input type="checkbox"/> Direction to: _____ <input type="checkbox"/> Referred to: _____ <input type="checkbox"/> Continued to: _____ <input type="checkbox"/> Authorization given to: _____	Resolution 2020- _____ Agreement 2020- _____ Ordinance _____ Vote: Ayes: Noes: Abstain: Absent: <input type="checkbox"/> By Consensus
COMMENTS: _____ _____ _____ _____		
CLERK TO THE BOARD _____	DATE _____	

Tim Beals

From: Brandon Pangman
Sent: Friday, January 24, 2020 5:20 PM
To: Tim Beals
Subject: FW: Regional Early Action Planning Grant Program (REAP) update to allocations

Congratulations on the SB-2 grant, apparently. Although it got reduced to 'only' \$121,517.00 (shucks).

I have not seen any other formal notice of award yet.

Has the Board authorized appropriation of funds to enter into a contract (or amend existing contract) with Mintier-Harnish for the Housing Element update?

Brandon Pangman

Assistant Director

Planning & Building Department

Sierra County, California

(530) 289-3251 – bpanqman@sierracounty.ca.gov

From: Kausar, Nurulain@HCD [mailto:Nurulain.Kausar@hcd.ca.gov]
Sent: Friday, January 24, 2020 5:01 PM
To: Kausar, Nurulain@HCD <Nurulain.Kausar@hcd.ca.gov>
Cc: McDougall, Paul@HCD <Paul.McDougall@hcd.ca.gov>; Kirkeby, Megan@HCD <Megan.Kirkeby@hcd.ca.gov>
Subject: Regional Early Action Planning Grant Program (REAP) update to allocations

Dear Regional Early Action Planning Grant Applicants,

The California Department of Housing and Community Development (HCD) is releasing revised allocations of funding for the Regional Early Action Planning Grant Program (REAP). The 2019-2020 Budget Act provides regions and jurisdictions with one-time funding for planning activities to enable jurisdictions to meet the sixth cycle of the regional housing needs allocation and accelerate housing production. This includes funding that will be allocated to COGs, Multiagency Working Groups, and Counties not represented by COGs or Working Groups, by population-based formula.

In October 2019, HCD released allocations using population estimates according to the most recent E-1 report (May 2019). However, upon legal review of the statute, HCD found that the population estimates that were posted to the Department of Finance (DOF) website as of January 1, 2019 that must be used for REAP were 2018 estimates. DOF confirmed this. Thus, HCD has changed the REAP funding amounts using the 2018 estimates (available on DOF website 1/1/2019) instead of the 2019 estimates (available on DOF website 5/1/2019).

[Statute](#) language:

50515.03(a)(2) For purposes of this subdivision, the population of a jurisdiction shall be based on the population estimates posted on the Department of Finance's internet website as of January 1, 2019.

HCD understands that applicants may already be going through the process, or may have completed the process, of adopting resolutions and planning activities with the previously released amounts. We apologize for

this change and are available to work with you on the forthcoming application to best meet your needs with the funding available.

The application for full funding and Notice of Funding Availability (NOFA) for REAP funds will be available late February 2020. In the meantime, from the amount of funding available, HSC 50515.02(d)(3) permits a COG or a fiscal agent of a Multiagency Working Group to request up to 25 percent of the funding available to it, on or after October 1, 2019. The revised 25 percent allocations are listed below in parentheses for the COGs and Working Groups.

The Counties listed below are also eligible to apply for Local Early Action Planning Grants (LEAP). The LEAP NOFA will be released later this month. To learn more, visit the [LEAP page on our website](#). To receive emails related to planning grants, Prohousing, regional housing needs allocations, and housing elements, please fill out this [email signup form](#) located on our website. For questions regarding LEAP and REAP, please email EarlyActionPlanning@hcd.ca.gov.

Thank you.

Eligible Applicants	Maximum Award Amount (25% amount)
Councils of Governments	
Association of Bay Area Governments	\$23,966,861 (\$5,991,715.25)
Sacramento Area Council of Governments	\$6,762,880 (\$1,690,720)
San Diego Association of Governments	\$6,851,680 (\$1,712,920)
Southern California Association of Governments	\$47,471,023 (\$11,867,755.75)
Butte County Association of Governments	\$883,334 (\$220,833.50)
Humboldt County Association of Governments	\$785,186 (\$196,296.50)
Lake County COG	\$261,729 (\$65,432.25)
Mendocino County COG	\$383,245 (\$95,811.25)
Multiagency Working Groups	
Central Coast Multiagency Working Group, consisting of the Association of Monterey Bay Area Governments, the San Luis Obispo COG, the Council of San Benito County Governments, and the Santa Barbara County Association of Governments	\$7,931,311 (\$1,982,827.75)
San Joaquin Valley Multiagency Working Group, consisting of Fresno COG, Kern COG, the Kings County Association of Governments, the Madera County Transportation Commission, the Merced County Association of Governments, the San Joaquin COG, the Stanislaus COG, and the Tulare County Association of Governments	\$18,975,323 (\$4,743,830.75)
Counties	
Alpine	\$60,758
Amador	\$444,004
Calaveras	\$200,970
Colusa	\$182,275
Del Norte	\$200,970

Glenn	\$182,275
Inyo	\$121,517
Lassen	\$121,517
Mariposa	\$60,758
Modoc	\$121,517
Mono	\$121,517
Nevada	\$462,699
Plumas	\$121,517
Shasta	\$682,364
Sierra	\$121,517
Siskiyou	\$687,038
Tehama	\$322,487
Trinity	\$60,758
Tuolumne	\$200,970



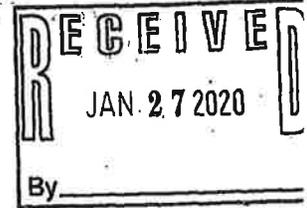
Nur Kausar

Land Use and Planning Manager
Housing Policy Development Division
Housing & Community Development
2020 W. El Camino Avenue, Suite 500 | Sacramento, CA 95833
Phone: 916.263.5082



**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833
(916) 263-2911 / FAX (916) 263-7453
www.hcd.ca.gov



January 24, 2020

Heather Foster, County Clerk-Recorder
Sierra County
P.O. Drawer D
Downieville, CA 95936

RE: County of Sierra's Failure to Submit a Timely 6th Cycle Housing Element Update

Dear Heather Foster:

The California Department of Housing and Community Development (HCD) would like to remind the County of Sierra that it is subject to revise its Housing Element for the 6th cycle planning period (6th cycle) pursuant to Government Code section 65588, subdivision (e).

The 6th cycle update was due August 31, 2019. However, that date has passed, and the County of Sierra has failed to submit and adopt an updated Housing Element. As a result, the County of Sierra's Housing Element does not comply with Housing Element law (Article 10.6 of the Government Code) and has been out of compliance since August 31, 2019.

The Permanent Local Housing Allocation program (PLHA) is a formula grant available to both entitlement and non-entitlement jurisdictions. The Notice of Funding Availability will be released in February 2020 with applications accepted over-the-counter beginning April 2020 through July 2020. Funding to eligible jurisdictions is available on a non-competitive basis, provided jurisdictions meet basic threshold requirements. Housing element compliance is one of threshold requirements. Without housing element compliance, the County of Sierra is ineligible to apply for and access these funds. In addition, other funding sources such as SB 2 Planning Grants, CalTrans Senate Bill (SB) 1 Sustainable Communities grants, and the Strategic Growth Council and HCD's Affordable Housing and Sustainable Communities program consider housing element compliance and/or annual reporting requirements pursuant to Gov. Code section 65400.

Heather Foster, County Clerk-Recorder
Page 2

As a reminder, to meet the 6th cycle update requirements, the County of Sierra must submit a draft Housing Element to HCD for review, consider HCD's written findings, adopt the Housing Element, and submit it to HCD for review and certification. For more information, please visit our website at: <https://www.hcd.ca.gov/community-development/housing-element/docs/6th-web-he-dupdate.pdf> or contact Robin Huntley at (916) 263-7422.

Sincerely,



Zachary Olmstead
Deputy Director

**Sierra County
Board of Supervisors'
Agenda Transmittal &
Record of Proceedings**

MEETING DATE: February 4, 2020	TYPE OF AGENDA ITEM: <input checked="" type="checkbox"/> Regular <input type="checkbox"/> Timed <input type="checkbox"/> Consent
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DEPARTMENT: Public Works and Transportation
APPROVING PARTY: Tim H. Beals, Director
PHONE NUMBER: 530-289-3201

AGENDA ITEM: Presentation of bids and adoption of resolution for award of Public Works Contract to Escherman Construction for the Ridge Road Storm Damage Repair, Federal Aid Project Nos. 32LO(483) & 32LO(492).

SUPPORTIVE DOCUMENTS ATTACHED: Memo Resolution Agreement Other
Bid Tabulation, Resolution and Public Works Contract

BACKGROUND INFORMATION: These are 2017 storm damage projects that are funded by the Federal Highway Administration Emergency Relief Program. Plans and Specifications were approved and bidding authorized by the Board of Supervisors on December 3, 2019. Bid opening was January 9, 2020 and four bids were received for these for project sites.

FUNDING SOURCE: FHWA ER FUNDING/COUNTY ROAD
GENERAL FUND IMPACT: No General Fund Impact
OTHER FUND: Road (031)
AMOUNT: \$981,867.93 (FHWA 88.5%, County 11.5%) N/A

ARE ADDITIONAL PERSONNEL REQUIRED? <input type="checkbox"/> Yes, -- -- <input checked="" type="checkbox"/> No	IS THIS ITEM ALLOCATED IN THE BUDGET? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No IS A BUDGET TRANSFER REQUIRED? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
--	---

SPACE BELOW FOR CLERK'S USE

BOARD ACTION: <input type="checkbox"/> Approved <input type="checkbox"/> Approved as amended <input type="checkbox"/> Adopted <input type="checkbox"/> Adopted as amended <input type="checkbox"/> Denied <input type="checkbox"/> Other <input type="checkbox"/> No Action Taken	<input type="checkbox"/> Set public hearing For: _____ <input type="checkbox"/> Direction to: _____ <input type="checkbox"/> Referred to: _____ <input type="checkbox"/> Continued to: _____ <input type="checkbox"/> Authorization given to: _____	Resolution 2020- _____ Agreement 2020- _____ Ordinance _____ Vote: Ayes: Noes: Abstain: Absent: <input type="checkbox"/> By Consensus
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COMMENTS:

_____ CLERK TO THE BOARD	_____ DATE
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FOR STORM DAMAGE REHABILITATION AT TWO LOCATIONS ON RIDGE ROAD
IN SIERRA COUNTY, NEAR ALLEGHANY, CA
RIDGE ROAD LOCATION 1 - FEDERAL PROJECT NO.: 32LO(483)
RIDGE ROAD LOCATION 2 - FEDERAL PROJECT NO.: 32LO(492)

BID OPENING January 9, 2020 at 3:01 PM

Bidder	Bid Amount Location 1	Bid Amount Location 2	Bid Amount Total
Escheman Construction	\$ 368,722.50	\$ 613,145.43	\$ 981,867.93
Meyers Earthwork Inc.	\$ 377,775.00	\$ 657,634.00	\$ 1,035,409.00
Steelhead Constructors Inc.	\$ 470,593.00	\$ 728,184.00	\$ 1,198,777.00
MKD Construction Inc.	\$ 703,202.00	\$ 959,912.00	\$ 1,663,114.00

BOARD OF SUPERVISORS, COUNTY OF SIERRA, STATE OF CALIFORNIA

**IN THE MATTER OF AWARD OF CONTRACT TO
LOWEST QUALIFIED BIDDER FOR
RIDGE ROAD STORM DAMAGE REPAIR, FEDERAL AID
RIDGE ROAD STORM DAMAGE REPAIR,
FEDERAL AID PROJECT NOS. 32LO(483) & 32LO(492)**

RESOLUTION NO. 2020-_____

WHEREAS, the County of Sierra has heretofore called for sealed bids for the project referred to as the Ridge Road Storm Damage Repair, Federal Aid Project Nos Ridge Road Storm Damage Repair, Federal Aid Project Nos. 32LO(483) & 32LO(492); and

WHEREAS, in response to the formal call for bids, four were received; and

WHEREAS, the contract shall be awarded to the lowest qualified responsible bidder;
and

WHEREAS, bid opening was held at 3:01 p.m. on Wednesday, January 9, 2020; and,

WHEREAS, after analysis of the bid it has been determined that Escheman Construction has submitted the lowest qualified bid.

NOW THEREFORE, BE IT RESOLVED THAT the award of contract to Escheman Construction is hereby approved.

BE IT FURTHER RESOLVED THAT the Director of Transportation is hereby granted authority to administratively approve construction change orders on the referenced contract as necessary, and within the confines of the funding, cumulative total of which is not to exceed 10% of the construction contract.

ADOPTED by the Board of Supervisors of the County of Sierra on the 4th day of February, 2020 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

COUNTY OF SIERRA

JAMES BEARD, CHAIRMAN
BOARD OF SUPERVISORS

ATTEST:

APPROVED AS TO FORM:

HEATHER FOSTER
CLERK OF THE BOARD

DAVID PRENTICE
COUNTY COUNSEL

**COUNTY OF SIERRA
PUBLIC WORKS CONTRACT
SHORT FORM**

PARTIES

THIS CONTRACT, made this 4th day of February, 2020, by and between the COUNTY OF SIERRA, a political subdivision of the State of California, hereinafter referred to as “County” and Escheman Construction hereinafter referred to as “Contractor”.

This contract is for the following project:

Ridge Road Storm Damage Repair, Federal Aid Project Nos. 32LO(483) & 32LO(492)

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, it is hereby agreed as follows:

TERMS & CONDITIONS

1. SCOPE OF WORK:

The work to be performed includes but is not limited to provisions of all equipment, materials, and labor necessary for work to be performed in accordance with Plans and Specifications included in this bid package.

2. CONTRACT TIME:

2.1 COMMENCEMENT AND COMPLETION

The Work shall be commenced on the date specified in the County's “Notice of Award to Contractor” and shall be fully completed no later than **eighty (80) working days** thereafter, or such additional time as may have been provided by Change Order, pursuant to the Contract Documents.

2.2 TIME IS OF THE ESSENCE

Time is of the essence. If the work is not completed in the time specified, including such extensions of time as may have been granted for unavoidable delays, the Contractor will be assessed damages for delay in accordance with the liquidated damages provision herein. A determination of whether delays were avoidable or not shall be made by County.

3. CONTRACT PRICE:

County shall pay Contractor for the full and complete performance of this Contract the sum of nine hundred eighty one thousand eight hundred sixty seven and 93/100 (\$981,867.93).

The contract price may be adjusted only as provided in the Contract Documents and only upon the express written approval of the County Board of Supervisors or the County Director of Transportation and in the event of any such adjustment, the Contractor agrees that the maximum adjustment to be attributable to his overhead and profit shall not exceed fifteen percent (15%) of the actual costs to Contractor for any additional work encompassed by any such adjustment, in accordance with the General Conditions.

4. PAYMENTS:

4.1 PROGRESS PAYMENTS

Where the work is anticipated to require more than forty-five (45) days to complete, Contractor may apply for progress payments on a monthly basis. Monthly progress payments shall be made in accordance with the General Conditions of these Contract Documents, subject to a ten percent (10%) withhold as specified therein Contractor shall submit a signed application for payment covering the work completed to that date and accompanied by supporting documentation to County's satisfaction. Progress payments will be in an amount equal to ninety percent (90%) of the work completed.

4.2 FINAL PAYMENT

Payment in full for the completed project will not be due until at least thirty (30) days after filing of the Notice of Completion with the County Clerk. Acceptance of final payment will be deemed a waiver of all claims except those which were timely made pursuant to the claims provisions of this contract. Final payment shall be made in accordance with the General Conditions of these Contract Documents.

4.3 INVOICE CONTENT

Invoices or applications for payment to the County shall be detailed and shall contain full documentation of all work performed and all reimbursable expenses incurred. Where the scope of work on the contract is divided into various tasks, invoices shall detail the related expenditures accordingly. Labor expenditures need documentation to support time, subsistence, travel and field expenses. No expense will be reimbursed without adequate documentation. This documentation will include, but not be limited to, receipts for material purchases, rental equipment and subcontractor work.

4.4 ACCEPTANCE OF FINAL PAYMENT AS RELEASE

The acceptance by the Contractor of final payment shall be and shall operate as a release to the County of any and all claims and all liability to the Contractor for all things done or furnished in connection with this work and for every act and/or neglect of the County or others relating to or arising from the Work, to the full extent authorized by Public Contracts Code Section 7100. No payment, however, final or otherwise, shall operate to release the Contractor of his sureties from any obligations under this Contract or the Performance and Payment Bonds required by this Contract, or the guarantees and warranties required by the Contract Documents, or the bond securing the same.

5. CONTRACT DOCUMENTS:

The contract documents comprise the entire agreement between the parties and may be amended only by writing signed by both parties or by written change order. The contract documents shall include this contract, plans and specifications, bidding documents, addenda thereto, all proposals submitted by Contractor, the general conditions attached hereto and special, and/or supplementary conditions issued by the County. In the case of ambiguity or conflict, the documents shall be given the following priority:

- This Agreement
- Contract Drawings
- Technical Specifications
- Duly issued Addenda
- General and/or Special Conditions
- Supplementary conditions, if any
- Duly issued Clarifications and Field Orders
- Duly issued Work Authorizations
- Duly issued Change Orders
- Supplemental Drawings issued pursuant to Article 4 of the General Conditions
- Initial Submittals approved pursuant to Article 3 and all other submittals approved pursuant to the General Conditions.
- Contractor's Bid Proposal Contractor's Guarantee and Bond
- Designation of Subcontractors
- Performance Bond
- Payment Bond

Such documents, collectively referred to as the "Contract Documents", are hereby incorporated herein by this reference and made a part hereof.

6. PERFORMANCE AND LABOR & MATERIAL BONDS:

Pursuant to the provisions of the California Civil Code Section 9550, for projects in excess of twenty five thousand dollars (\$25,000), the Contractor shall, prior to the performance of any work covered by this Contract, provide to County in such form as may be acceptable to County, a “performance bond” guaranteeing the faithful and timely performance of the work to be performed under this Contract and guaranteeing the work for a period of one full year from the date of the completion of the work (which shall be evidenced by the filing of a notice of completion by County) and a separate “labor and material bond” guaranteeing payment to any laborer, subcontractor and/or material supplier for the work under this Contract. The amount of each of these bonds shall be in accordance with the General Conditions to the Contract.

7. REPRESENTATIONS BY CONTRACTOR:

The Contractor hereby represents that before bidding, he carefully examined the Drawings and Project Manual, visited the Site of the Work and fully informed himself as to all existing conditions at the Site and limitations of information provided by the County regarding the Site.

The Contractor further represents that he has satisfied himself as to the nature and location of the Work, the general and local conditions, conditions of the Site, availability of labor, materials on the Site, the kind of equipment needed, the requirements of various trades or crafts needed to perform the Work and all other matters which in any way affect the Work or cost. The Contractor agrees that his failure to acquaint himself with all available information concerning conditions shall not relieve him from his bid or his responsibility for estimating properly the difficulties or cost of the Work, or the requirements for any trade, craft or portion of the Work.

The Contractor further represents that the Contract Price shall include everything necessary for the completion of Work and of fulfillment of this Agreement for Construction within the time specified hereby, including, but not limited to, furnishing all materials, equipment, tools, plant and other facilities, and all management, superintendence, labor, and services. The Contract Price includes allowance for all Federal, State and local taxes and payment of the prevailing wages required by applicable law and/or the General Conditions.

8. AMENDMENT:

This Contract may only be amended by a written amendment which shall require the formal approval of the Board of Supervisors. No County officer, agent or representative shall have the authority to amend this Contract.

9. DELAY:

The Contractor specifically acknowledges and agrees that a time extension is his sole remedy for delays caused by the County, and agrees to make no claim for additional damages for such delay. Contractor shall be entitled to a price adjustment with such time extension Change Order, but such price adjustment shall be limited to his direct additional costs to perform the Contract, subject to the General Conditions, and subject to verification by the County.

Processing of Submittals, Clarifications and other information by the County within the time specified in the Contract Documents shall in no event constitute a County-caused delay.

10. NOTICES:

Any notice, demand, request, consent, approval or communication that any party desires or is required to give any other party shall be in writing and either served personally or sent by pre-paid first-class mail. Any such writing shall be addressed as follows:

COUNTY

Tim H. Beals, Project Director
Sierra County Department of Public Works
Post Office Box 98
Downieville, CA 95936

PROJECT ENGINEER

Joachim Siemers, P.E.
MGE Engineering, Inc.
7415 Greenhaven Drive, Suite 100
Sacramento, CA 95831

PROJECT CONTRACTOR

Jim Escherman
Escherman Construction
P.O. Box 607
Brownsville, CA 95919

11. LIQUIDATED DAMAGES:

If the Work is not completed by Contractor in the time specified in Section 2 of the Agreement for Construction, or within any period of extension authorized pursuant to a duly issued Change Order, Contractor acknowledges and admits that the County will suffer damage, and that it is impracticable and infeasible to fix the amount of actual damages. Therefore, it is agreed by and between the Contractor and the County that the Contractor shall pay to the County as fixed and liquidated damages, and not as a penalty, a sum equal to one-half of one percent of the contract price, or the sum of **Six Thousand** dollars (**\$6,000.00**), whichever is greater, for each calendar day of delay until the Work is completed and accepted, and that both Contractor and Contractor's surety shall be liable for the total amount thereof, and that the County may deduct said sums from any monies due or that may become due to Contractor, prior to determining the final amount due to Contractor.

This liquidated damages provision shall apply to all delays of any nature whatsoever, save and except only delays found by the Board of Supervisors to be unavoidable pursuant to the General Conditions, or time extensions granted in writing by the Board of Supervisors.

IN WITNESS WHEREOF, the parties hereto executed this Agreement the day and year first above written.

COUNTY OF SIERRA

By _____
JAMES BEARD
Chairman of the Board of Supervisors

ATTEST:

APPROVED AS TO FORM:

HEATHER FOSTER
Clerk of the Board

DAVID PRENTICE
County Counsel

CONTRACTOR

By _____
Official Title

License Number _____

(CORPORATE SEAL)

CORPORATE CERTIFICATE

I, _____, certify that I am the Secretary of the Corporation named as CONTRACTOR in the foregoing Contract; that _____, who signed said Contract on behalf of said Corporation is authorized to fully bind the corporation to this Agreement; that said contract was duly signed for and on behalf of said corporation by authority of its governing body and is within the scope of its corporate powers.

(Secretary)

(CORPORATE SEAL)

GENERAL CONDITIONS

1. CHANGES IN THE WORK:

County may order additions, deletions or revisions in the work which shall be authorized by written change order. Circumstances may occur where Contractor may need to apply for a change in the contract. Such changes must be applied for in writing in advance by Contractor and approved prior to doing of the additional work. Changes in contract price due to change orders shall be established either by (1) unit prices (where bidding was done by unit price), (2) based on the actual cost of the work (including but not limited to all labor and materials) plus an amount not to exceed 15 percent (15%) for overhead and profit together, or (3) by mutual acceptance of a lump sum.

2. BONDS:

A. For projects involving more than \$25,000 the contractor shall furnish two bonds each in the amount of 100 percent (100%) of the contract price, one as security for the faithful performance of the work, and the other as security for the faithful payment and satisfaction of all persons furnishing materials and performing labor for the project. The labor and materials bonds shall remain in effect until the recording of a Notice of Completion. The performance bond shall remain in effect until the running of the warranty period. The bonds shall be issued by a corporation duly licensed to transact surety business in California. The bonds must be executed by a duly licensed surety company and accompanied by a certified copy of the authority to act and shall be on the form provided by County.

B. In the event of a default by contractor, County shall notify contractor of the specifics of the default and shall extend a reasonable time to contractor to cure same or to pay such damages as County may reasonably assess under the terms of the Public Works Contract. County shall not release the bonds or security until contractor has fully performed under the contract. If contractor fails to promptly cure any breach or to pay such damages as may have been reasonably assessed after notification of the breach and/or of the assessment of damages, County shall proceed to sell the securities and/or make demand on the bonds.

C. County reserves the right to accept or to reject the tender of any bond or security as being sufficient to protect the interest of the County.

3. CONTRACTOR LIABILITY AND INSURANCE:

Contractor shall be liable for all damages and injury which shall be caused to County or any other property on or in the vicinity of the work or which shall occur to any person or persons or property whatsoever arising out of the performance of this contract. Contractor shall purchase and maintain such commercial general liability and other insurance as is appropriate and/or as may be required in the special conditions, for the work being performed and furnished and which will provide complete protection to County. Said policies shall be payable on a "per occurrence" basis unless County specifically consents to a "claims made" basis. At a minimum Contractor shall provide and maintain a policy of commercial general liability insurance in a combined single limit of two million dollars (\$2,000,000.00) and Worker's Compensation Insurance.

Where the services to be provided under this contract involve or require the use of any type of vehicle by Contractor in order to perform said services, Contractor shall also provide comprehensive business or commercial automobile liability coverage including non-owned and hired automobile liability in the amount of one million dollars (\$1,000,000.00).

County shall be a named insured and a certificate of insurance and endorsements shall be provided by Contractor prior to commencement of work. Contractor shall also purchase and maintain property insurance upon the work or equipment and supplies stored at the site, if any, to the full insurable value thereof. All policies of insurance shall contain a provision that the coverage will not be canceled, materially changed, or renewal refused until at least thirty (30) days prior written notice has been given to County. If a loss occurs, the above insurance shall be primary.

4. RISK OF LOSS:

Liability for loss or damage to equipment, materials, work completed or services occurring on or off the site shall be the responsibility of Contractor. Liability for completed work shall not be assumed by County until both the work has been completed and County has accepted the work as complete.

5. MATERIALS AND EQUIPMENT:

All material and equipment shall be of good quality and new unless the contract provides otherwise. Whenever materials or equipment are specified or described in the contract documents by using the name of a proprietary item or a particular supplier, it is intended to establish the type, function and quality required. Any substitutions must be expressly consented to by County in advance of installation or use.

Where applicable, Contractor shall deliver all manufacturer's operating and maintenance instructions to County prior to receipt of final payment.

6. WARRANTY AND CORRECTION PERIOD:

If within one year after the date of completion and County's acceptance of the work or such longer period of time as may be prescribed by law or regulations or by the terms of any applicable special guarantee required by the contract documents any work is found to be defective, Contractor shall promptly, without cost to County and in accordance with County's written instruction, either correct such defective work, or, if it has been rejected by County, remove it from the site and replace it with non-defective work. If Contractor is unable to promptly and properly correct any defective work, County may at its option have the work corrected by such other means as County deems appropriate and hold Contractor liable for all direct, indirect and consequential costs caused by such defective work. Said warranty shall apply to all work found to be "defective" which is attributable to the quality or quantity of the materials used, the quality of the workmanship or for lack of proper performance under the contract. The warranty obligation shall not limit the County's right to otherwise seek damages in the event of any failure by Contractor to properly perform under this Agreement.

7. PERMITS AND TAXES:

Unless otherwise provided in the special contract provisions, Contractor shall obtain and pay for all construction permits, licenses or other permits necessary to complete the work and shall be liable for all governmental charges, inspection fees, utility connection charges, sales, consumer, use and other taxes.

8. INDEMNIFICATION:

Contractor shall fully indemnify, hold harmless and defend County and its consultants, agents, officers and employees from and against all claims, damages, losses and expenses, direct, indirect or consequential arising out of or resulting from the negligent performance of the work herein or willful misconduct by Contractor.

9. SUSPENSION OF WORK:

County may, at any time and without cause, suspend the work or any portion thereof for a reasonable period of time by notice in writing to Contractor.

10. TERMINATION:

Except as limited by law or regulation, County may terminate this contract upon the occurrence of any one or more of the following events.

- A. If Contractor commences a voluntary case under any chapter of the Bankruptcy Code (Title 11, United States Code), as now or hereafter in effect, or if Contractor takes any equivalent or similar action by filing a petition or otherwise under any other federal or state law in effect at such time relating to the bankruptcy or insolvency;
- B. If a petition is filed against Contractor under any chapter of the Bankruptcy Code as now or hereafter in effect at the time of filing, or if a petition is filed seeking any such equivalent or similar relief against Contractor under any other federal or state law in effect at the time relating to bankruptcy or insolvency;
- C. If Contractor makes a general assignment of its obligations and/or compensation under this Agreement;
- D. If a trustee, receiver, custodian or agent of Contractor is appointed under applicable law or under contract, whose appointment or authority to take charge of property of Contractor is for the purpose of enforcing a lien against such property or for the purpose of general administration of such property for the benefit of Contractor's creditors;
- E. If Contractor admits in writing an inability to pay its debts generally as they become due;
- F. If Contractor persistently fails to perform the work in accordance with the contract documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the time schedule);
- G. If Contractor disregards ordinances, laws or regulations of any public body having jurisdiction;
- H. If Contractor disregards the authority of County's supervisory staff, and, in particular, the Contract Administrator;
- I. If Contractor otherwise violates in any substantial way any provisions of the contract documents.

County may, after giving Contractor seven days' written notice, terminate the services of Contractor, exclude Contractor from the site and take possession of the work, incorporate in the work all materials and equipment stored at the site or for which County has paid Contractor but which are stored elsewhere, and finish the work as County may deem expedient. In such case Contractor shall not be entitled to receive any further payment until the work is finished. If the unpaid balance of the contract price exceeds the direct, indirect and consequential costs of completing the work (including but not limited to fees and charges of engineers, architects, attorneys and other professionals and court costs) such excess will be paid to Contractor. If such costs exceed such unpaid balance, Contractor shall pay the difference to County. When exercising any rights or remedies under this paragraph, County shall not be required to obtain the lowest price for the work performed. Where Contractor's services have been so terminated by County, the termination will not affect any rights or remedies of County against Contractor then existing or which may thereafter accrue. Any retention or payment of moneys due Contractor by County will not release Contractor from liability.

Upon seven days' written notice to Contractor, County may, without cause and without prejudice to any other right or remedy, elect to abandon the work and terminate the Contract. In such case, Contractor shall be paid for all work executed and any actual expense sustained.

11. SUPERVISION AND CLAIMS DETERMINATIONS:

11.1 CONTRACT ADMINISTRATOR

County may appoint staff or hire professional services for supervision and administration, at its election. Said person is hereinafter referred to as "Contract Administrator". Upon the appointment of any such Contract Administrator the County shall promptly notify Contractor of such action. The Contract Administrator is delegated authority to determine the amount, quality, acceptability and fitness of the work, materials and equipment to be paid for under this contract, to decide for County all questions relative to contract interpretation, to reject or condemn all work or material which does not conform to the terms of this contract and to review and make a final determination on all claims submitted to County. In the absence of an appointment of a Contract Administrator, the County Director of Public Works shall perform these functions.

11.2 WRITTEN CLARIFICATION

If there is an ambiguity in the contract documents, Contractor shall request an interpretation from the Contract Administrator. Contractor Administrator shall issue a written clarification or interpretation. If Contractor believes that a written clarification or interpretation justifies an increase in the contract price or an extension of the contract time and the parties are unable to agree on the amount or extent thereof, Contractor may make a claim therefore.

11.3 CHANGE ORDER

The Contract Administrator may authorize or require variations in the work from the requirements of the contract documents so long as it is in writing. Contractor shall perform the work involved promptly. If Contractor believes that such a change order justifies an increase in the contract price or an extension of the contract time and the County and Contractor are unable to agree as to the amount or extent thereof, Contractor may make a claim therefore.

11.4 UNIT PRICING

If the contract was based on unit pricing, the Contract Administrator will determine the actual quantities and classifications of unit price work. The Contract Administrator's written decisions thereon will be final and binding upon Contractor unless Contractor delivers to Contract Administrator written notice that Contractor disputes said decision and the reasons therefore as required below.

11.5 CLAIM PROCEDURE

For purposes of this paragraph, "claim" shall be defined as set forth in Public Contracts Code Section 20104(b)(2). Claims shall be presented in writing and include the documents necessary to substantiate the claim. Claims must be filed with the Contract Administrator no later than thirty (30) days after the occurrence of the event giving rise thereto or denial of the change order, whichever occurs last. The form of said claims shall be the same as is required by Government Code Sections 910 and

910.2.

11.6 CLAIMS UNDER \$50,000

If the claim is under \$50,000, County shall respond in writing to Contractor within forty-five (45) days of receipt of Contractor's claim or may request, in writing, within thirty (30) days of receipt of the claim, any additional documentation supporting the claim or relating to defenses or claims the County may have against the Contractor. If additional information is thereafter required, it shall be requested and provided pursuant to Public Contracts Code Section 20104.2, upon mutual agreement of the County and the Contractor. The County's written response to the claim, as further documented, shall be submitted to the Contractor within fifteen (15) days after receipt of the further documentation or within a period of time no greater than that taken by the Contractor in producing the additional information, whichever is greater.

11.7 CLAIMS OVER \$50,000

For claims over \$50,000 and less than or equal to \$375,000, County shall respond in writing to all written claims within sixty (60) days of receipt of the claim, or may request, in writing within thirty (30) days of receipt of the claim, any additional documentation supporting the claim or relating to defenses or claims the County may have against Contractor. If additional information is thereafter required, it shall be requested and provided pursuant to Public Contracts Code Section 20104.2, upon mutual agreement of County and Contractor. The County's written response to the claim, as further documented, shall be submitted to Contractor within thirty (30) days after receipt of the further documentation, or within a period of time no greater than that taken by Contractor in producing the additional information or requested documentation, whichever is greater.

11.8 MEET AND CONFER

If Contractor disputes County's written response, or County fails to respond within the time prescribed above, Contractor may so notify County, in writing, either within 15 days of receipt of County's response or within fifteen (15) days of County's failure to respond within the time prescribed, respectively, and demand an informal conference to meet and confer with such County representatives as the Board of Supervisors directs for settlement of the issues in dispute. Upon such demand, County shall schedule a meet and confer conference within thirty (30) days for settlement of the dispute.

11.9 APPEAL TO BOARD OF SUPERVISORS

If following the meet and confer conference the claim or any portion remains in dispute, if Contractor desires to pursue Contractor's claim/demand for further compensation, Contractor shall be required to file a claim with the Board of Supervisors pursuant to procedures set out in Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code. All claims filed with the Board of Supervisors pursuant to the Government Code shall be filed within ninety (90) days of the denial of the original claim by the County representative. The running of the period of time within which a claim under the Government Code must be filed shall be tolled by any period of time utilized by the meet and confer conference. Any lawsuit which Contractor intends to bring with respect to any claim filed pursuant to the Government Code which claim has been denied by County must be commenced not later than six months after the recording of the notice of completion or not later than six months after the date final payment is deposited in the mail or personally delivered, whichever date comes first.

11.10 DOCUMENTATION

For every claim that Contractor makes, it shall provide the following documentation upon request of County as a condition precedent to consideration of the claim: Contractor's bidding calculations forms, cost estimates, time sheets, trend reports, job cost analysis records, labor records, as-built documents, any other records used by Contractor in arriving at its bid price, and any other documents or records kept by Contractor during the course of construction. In the event that claims are made, Contractor agrees that County shall have the right to conduct a complete audit of the books and records of Contractor relating to this project and any books and records relating to overhead, profit or general office expenses charged to this project.

11.11 CONTRACT ADMINISTRATOR NOT RESPONSIBLE

Notwithstanding the above, Contract Administrator shall not be responsible for Contractor's means, methods, techniques, sequences or procedures of construction or the safety precautions and programs incident thereto and will not be responsible for Contractor's failure to perform or furnish the work in accordance with the contract documents. Contract Administrator shall also not be responsible for the acts or omissions of Contractor or of any subcontractor, any supplier, or any other person or organization performing or furnishing any of the work.

12. PAYMENTS:

12.1 SCHEDULE OF VALUES

The schedule of values established for the work will serve as the basis for progress payments and will be incorporated into a form of application for payment acceptable to County. Progress payments on account of unit price work will be based on the number of units completed.

12.2 PROGRESS PAYMENT

Once each month County shall cause an estimate to be made covering the work completed as of the date of the estimate. No materials shall be paid for until incorporated into the work. The amount of retention with respect to progress payments will be five percent (5%).

12.3 AMOUNTS OF PROGRESS PAYMENTS

Prior to completion, progress payments will be in an amount equal to:

12.3.1 NINETY FIVE PERCENT (95%) OF COMPLETED WORK. Ninety percent (95%) of the work completed, and

12.3.2 NINETY PERCENT (95%) OF STORED MATERIALS. Where applicable pursuant to the above, ninety percent (95%) of materials and equipment not incorporated in the work but delivered and suitably stored, less in each case the aggregate of payments previously made.

12.3.3 CONTRACT BALANCE. Thirty (30) days after recordation of a notice of completion by the County, County will pay an amount sufficient to increase total payments to Contractor to one hundred percent (100%) of the contract price, less such amounts as County shall determine in accordance with this contract. County reserves the right to retain such funds as it shall determine in accordance with the contract documents to complete the work.

12.3.4 ESCROWED SECURITY ALTERNATION. The Contractor may elect to receive one hundred percent 100% of payments due under this contract from time to time, without retention of any portion of the payment by the public agency, by depositing securities of equivalent value with County in accordance with the provisions of Section 4590 of the *California Government Code*. Securities eligible for investment shall include those listed in Section 16430 of the *California Government Code*, or bank or savings and loan certificates of deposits. Such securities, if deposited by the bidder, shall be valued by County whose decision on the valuation of the securities shall be final. The bidder shall be the beneficial owner of any

securities substituted for money withheld and shall receive any interest thereon. Said deposited funds shall be covered by an escrow agreement in a form approved by the County.

12.4 CONTRACTOR'S WARRANTY OF TITLE

Contractor warrants and guarantees that title to all work, materials and equipment covered by any application for payment, whether incorporated in the project or not, will pass to County no later than the time of payment free and clear of all liens.

12.5 PAYMENT OF PROGRESS PAYMENT

County will submit each progress pay estimate to Contractor. Upon receipt back from Contractor of a signed copy of the pay estimate, County shall process the pay estimate for payment. The amount approved by County will become due thirty (30) days after receipt of the signed progress pay estimate. Said payment shall be made by County to Contractor unless County has knowledge of claims or liens filed in connection with the work.

12.6 COUNTY'S RECOMMENDATION OF PAYMENT

By recommending any payment, Contractor cannot conclude that County represents that exhaustive or continuous on-site inspections have been made to check the quality or the quantity of the work in the contract documents or that there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by County or County to withhold payment to Contractor.

12.7 COUNTY MAY REFUSE TO MAKE PAYMENT

County may refuse to make payment of the full amount or any part if, in County's opinion, it would be incorrect to make such payment. County may also refuse to make any such payment, or, because of subsequently discovered evidence or the results of subsequent inspections or tests, nullify any such payment previously recommended, to such extent as may be necessary in County's opinion to protect County from loss because:

12.7.1 DEFECTIVE WORK. The work is defective, or completed work has been damaged requiring correction or replacement,

12.7.2 REDUCTION IN PRICE. The contract price has been reduced by written amendment or change order,

12.7.3 REQUIRED CORRECTIONS. Contractor has been required to correct defective work or complete work, or

12.7.4 SUSPENSION OR TERMINATION. Of County's actual knowledge of the occurrence of any of the events enumerated in paragraphs relating to suspension of work and termination.

12.7.5 LIENS OR CLAIMS. County may refuse to make payment of the full amount because claims have been made against County on account of Contractor's performance or furnishing of the work or liens have been filed in connection with the work or there are other items entitling

County to a set-off against the amount recommended, but County must give Contractor immediate written notice stating the reasons for such action.

12.8 COMPLETION AND FINAL INSPECTION

When Contractor considers the entire work ready for its intended use, Contractor shall notify County in writing that the entire work is completed. Within a reasonable time thereafter, County and Contractor shall make an inspection of the work to determine the status of completion. If County does not consider the work complete, County will notify Contractor in writing giving the reasons therefor. If County considers the work incomplete, County will prepare and deliver a list of items to be completed or corrected before final payment. Contractor shall immediately take such measures as are necessary to complete or correct the listed items.

12.9 ACCEPTANCE AND FINAL APPLICATION FOR PAYMENT

After Contractor has completed all such measures to remedy deficiencies to the satisfaction of County and delivered all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, marked-up record documents, property owner's releases and other documents, all as required by the contract documents, and after County has indicated that the work is acceptable, Contractor may make application for final payment. The final application for payment shall be accompanied by all documentation called for in the contract documents, together with complete and legally effective releases or waivers (satisfactory to County) of all liens and stop notices arising out of or filed in connection with the work. In lieu thereof and as approved by County, Contractor may furnish receipts or releases in full; an affidavit of Contractor that the releases and receipts include all labor, services, material and equipment for which a lien could be filed, and that all payrolls, material and equipment bills, and other indebtedness connected with the work for which County or County's property might in any way be responsible, have been paid or otherwise satisfied; and consent of the surety, if any, to final payment. If any subcontractor or supplier fails to furnish a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to County to indemnify County against any lien.

12.10 FINAL PAYMENT

If, on the basis of County's review of the final application for payment and accompanying documentation, all as required by the contract documents, County is satisfied that Contractor's obligations under the contract documents have been fulfilled, County will, within ten days after receipt of the final application for payment, process the application for payment. Otherwise, County will return the application to Contractor, indicating in writing the reasons for refusing to make final payment, in which case Contractor shall make the necessary corrections and resubmit the application. Thirty (30) days after presentation to County of the application and accompanying documentation, in appropriate form and substance, or thirty (30) days after recording of a Notice of Completion, whichever date is later, the amount will become due and will be paid by County to Contractor.

12.11 CONTRACTOR'S CONTINUING OBLIGATION

Contractor's obligation to perform and complete the work in accordance with the contract documents shall be absolute. Neither the issuance of a certificate of substantial completion, nor any payment by County to Contractor under the contract documents, nor any use or occupancy of the work or any part thereof by County, nor any act of acceptance by County nor any failure to do so, nor any review and approval of a shop drawing or sample submission, nor the issuance of a notice of acceptability, nor any correction of defective work by County will constitute an acceptance of work not in accordance with the contract documents or a release of Contractor's obligation to perform the work in accordance with the contract documents.

13. ARBITRATION:

For claims under \$375,000, County shall have the option of electing arbitration pursuant to Public Contracts Code Sections 10240, et seq. If County does not so elect, the provisions of Public Contracts Code Section 20104 shall apply. For claims which are above \$375,000, the arbitration provisions of this contract are voluntary. Neither County nor Contractor shall be required to enter into arbitration for amounts above \$375,000. Written consent of both parties to arbitrate such claims shall be a prerequisite to such arbitration. If the parties agree to arbitrate claims above \$375,000, the provisions of Public Contracts Code Sections 10240, et seq. shall be utilized.

14. WORKER'S COMPENSATION CERTIFICATION:

Contractor hereby certifies that Contractor is aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of that Code, and will comply with such provisions before commencing the performance of the work of this contract.

15. PREVAILING WAGE RATES:

In accordance with the provisions of Section 1770 and 1773 of the Labor Code, the County of Sierra has determined the general prevailing rate of wages applicable to the work to be done. These rates are on file in the Department of Transportation. The Contractor shall post a copy of the wage rates on the job site. Pursuant to California Labor Code Section 1775, Contractor shall forfeit twenty-five dollars (\$25.00) for each calendar day, or portion thereof, for each worker paid less than the prevailing rates for such work or craft, and said amounts shall be distributed pursuant to the requirements of said Section 1775. Any employee whose type of work is not covered by any of the classified wage rates shall be paid not less than the rate of wage listed for the classification which most nearly corresponds to the type of work to be performed.

In accordance with the provisions of Section 1813 of the California Labor Code, Contractor will be subject to the forfeiture of twenty-five dollars (\$25) per worker employed in the execution of the contract by the Contractor or subcontractor for each day said worker is required or permitted to work in excess of eight hours in any one calendar day and/or forty hours in any calendar week, except as provided in Section 1815 of the California Labor Code.

16. EMPLOYMENT OF APPRENTICE LABOR:

Reference is hereby made to Section 1777.5 of the Labor Code of the State of California, which regulations shall govern the employment of apprentices on the work. Compliance with said Section shall be the responsibility of the Contractor.

17. COLLECTIVE BARGAINING AGREEMENTS:

Pursuant to California Labor Code Section 1773.8, Contractor shall pay travel and subsistence payments to any workers covered by applicable collective bargaining agreements which provide for such payments.

18. PAYROLL RECORDS:

Contractor shall be responsible for keeping accurate payroll records as required by California Labor Code Section 1776. Contractor is aware that a penalty of twenty-five dollars (\$25.00) per day or portion thereof for each worker may be assessed for noncompliance with said section. Contractor shall forward to County a certified copy of each payroll record within ten days after close of each payroll period. An additional 10% retention may be withheld from any payment due for failure to provide same.

No contractor or subcontractor may be listed on a bid proposal for a public works project (submitted on or after March 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].

No contractor or subcontractor may be awarded a contract for public work on a public works project (awarded on or after April 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.

This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

19. EQUAL EMPLOYMENT OPPORTUNITY AND NONDISCRIMINATION:

During the performance of this contract, the contractor agrees to abide by all provisions of Section 1735 of the California Labor Code, as amended, regarding nondiscrimination practices.

20. ASSIGNMENT:

No assignment by a party hereto of any rights under or interests in the contract documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the contract documents.

21. CONFLICT OF INTEREST RESTRICTIONS:

No official of the County who is authorized in such capacity and on behalf of the County to negotiate, make, accept or approve, or to take part in negotiating, making, accepting, or approving any architectural, engineering, inspecting, construction or material supply contract or any subcontract in connection with the construction of the project, shall become directly or indirectly interested personally in this contract or in any part thereof. No officer, employee, architect, attorney, engineer, or inspector of or for the County who is authorized in such capacity and on behalf of the County who is in any legislative, executive, supervisor, or other similar function in connection with the construction of the project, shall become directly or indirectly interested personally in this contract or in any part thereof, any material supply contract, subcontract, insurance contract, or any other contract pertaining to the project.

22. WAIVER OF RIGHTS:

No action or lack of action on the part of County at any time to exercise any right or remedy conferred upon it under this contract shall be deemed to be a waiver on the part of the County of any of County's other rights or remedies.

23. SUCCESSORS IN INTEREST:

County and Contractor each bind themselves, their partners, successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns and legal representatives in respect to all covenants, agreements, and obligations contained in the contract documents.

24. SEVERABILITY:

If any provision to this contract is declared or found to be illegal, unenforceable or void, then both parties shall be relieved of all obligations arising under such provisions, and the remainder of this contract 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.

25. BOOKS OF RECORD AND AUDIT PROVISION:

Contractor shall maintain on a current basis complete books and records relating to this contract. Such records shall include, but not be limited to, documents supporting all bids, all income and all expenditures. The books and records shall be original entry books with a general ledger itemizing all debits and credits for the work on this contract. In addition, Contractor shall maintain detailed payroll records including all subsistence, travel and field expenses, and cancelled checks, receipts and invoices for all items. These documents and records shall be retained for at least five years from the completion of this contract. Contractor will permit County to audit all books, accounts or records relating to this contract or all books, accounts or records of any business entities controlled by Contractor who participated in this contract in any way. Any audit may be conducted on Contractor's premises or, at County's option, Contractor shall provide all books and records within a maximum of fifteen (15) days upon receipt of written notice from County. Contractor shall refund any moneys erroneously charged. If County ascertains that it has been billed erroneously by Contractor for an amount equaling 5% or more of the original bid, Contractor shall be liable for the costs of the audit in addition to any other penalty to be imposed.

26. NOTICE:

Notices shall be given to County at the following location:

If to "COUNTY":

Board of Supervisors
County of Sierra
Post Office Drawer D
Downieville, CA 95936

With a copy to:

Director of Public Works
P.O. Box 98
Downieville, CA 95936

If to "CONTRACTOR":

Jim Escherman
Escherman Construction
P.O. Box 607
Brownsville, CA 95919

27. JURISDICTION AND VENUE:

This Contract shall be construed in accordance with the laws of the State of California and the parties hereto agree that venue shall be in Sierra County, California.

FORM FHWA-1273

**REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS**

FHWA-1273 -- Revised May 1, 2012

- I. General
 - II. Nondiscrimination
 - III. No segregated Facilities
 - IV. Davis-Bacon and Related Act Provisions
 - V. Contract Work Hours and Safety Standards Act Provisions
 - VI. Subletting or Assigning the Contract
 - VII. Safety: Accident Prevention
 - VIII. False Statements Concerning Highway Projects
 - IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
 - X. Compliance with Government wide Suspension and Debarment Requirements
- Certification Regarding Use of Contract Funds for Lobbying

ATTACHMENTS

- A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.
3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.
4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

II. NONDISCRIMINATION

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. Equal Employment Opportunity: Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

- a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.
- b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. **EEO Officer:** The contractor will designate and make known to the contracting officers and EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting and active EEO program and who must be assigned adequate authority and responsibility to do so.
3. **Dissemination of Policy:** All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:
- a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.
 - b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.
 - c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.
 - d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.
 - e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.
4. **Recruitment:** When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.
- a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.
 - b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.
- c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.
5. **Personnel Actions:** Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:
- a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.
 - b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.
 - c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.
 - d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.
6. **Training and Promotion:**
- a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.
 - b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).
 - c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.
 - d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

FHWA-1273 -- Revised May 1, 2012

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

- a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.
- b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.
- c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.
- d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

3. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

- 3. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment:** The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.
- a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.
 - b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurance Required by 49 CFR 26.13(b):

- a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.
- b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

- a. The records kept by the contractor shall document the following:
 - (1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;
 - (2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and
 - (3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women.
- b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on [Form FHWA-1391](#). The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

FHWA-1273 -- Revised May 1, 2012

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. (1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

- (i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
 - (ii) The classification is utilized in the area by the construction industry; and
 - (iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
- (2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
- (3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
- (4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.
- c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.
- d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

FHWA-1273 -- Revised May 1, 2012

2. Withholding

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid.

Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b. (1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and

current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency.

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

FHWA-1273 -- Revised May 1, 2012

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

3. **Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

3. **Subcontracts.** The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

7. **Contract termination: debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act requirements.

All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.**10. Certification of eligibility.**

a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

i. Withholding for unpaid wages and liquidated damages. The FHWA or the contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

l. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

- (1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
- (2) the prime contractor remains responsible for the quality of the work of the leased employees;
- (3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
- (4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.
3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.
4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.
5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.
2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).
3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.
2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

FHWA-1273 -- Revised May 1, 2012

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200.

1. Instructions for Certification – First Tier Participants:

- a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.
- b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.
- c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause or default.
- d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
 - e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).
 - f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
- g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered

transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

- h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.
 - i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
 - j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

* * *

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

- a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:
 - (1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;
 - (2) Have not within a three-year period preceding this proposal 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;
 - (3) 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 (a)(2) of this certification; and
 - (4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
- b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

FHWA-1273 -- Revised May 1, 2012

2. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200)

- a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.
- b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
- c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.
- d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).
- e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
- f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.
- g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and normally possessed by a prudent person in the ordinary course of business dealings.

- i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 (49 CFR 20).

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, 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 Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
 - 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 Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

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

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed information of participant is not required to exceed that which is \$100,000 and that all such recipients shall certify and disclose accordingly.

**Sierra County
Board of Supervisors'
Agenda Transmittal &
Record of Proceedings**

MEETING DATE: February 4, 2020	TYPE OF AGENDA ITEM: <input checked="" type="checkbox"/> Regular <input type="checkbox"/> Timed <input type="checkbox"/> Consent
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DEPARTMENT: Public Works and Transportation
APPROVING PARTY: Tim H. Beals, Director
PHONE NUMBER: 530-289-3201

AGENDA ITEM: Presentation of bids and adoption of resolution for award of Public Works Contract to Judd Buick Construction, Inc. for the Mountain House Road Storm Damage Repair, Federal Aid Project Nos. 32LO(484), 32LO(485), 32LO(486), & 32LO(487).

SUPPORTIVE DOCUMENTS ATTACHED: Memo Resolution Agreement Other
Bid Tabulation, Resolution and Public Works Contract

BACKGROUND INFORMATION: These are 2017 storm damage projects that are funded by the Federal Highway Administration Emergency Relief Program. Plans and Specifications were approved and bidding authorized by the Board of Supervisors on December 3, 2019. Bid opening was January 9, 2020 and seven bids were received for these for project sites.

FUNDING SOURCE: FHWA ER FUNDING/COUNTY ROAD
GENERAL FUND IMPACT: No General Fund Impact
OTHER FUND: Road (031)
AMOUNT: \$416,260.50 (FHWA 88.5%, County 11.5%) N/A

ARE ADDITIONAL PERSONNEL REQUIRED? <input type="checkbox"/> Yes, -- -- <input type="checkbox"/> No	IS THIS ITEM ALLOCATED IN THE BUDGET? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No IS A BUDGET TRANSFER REQUIRED? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
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SPACE BELOW FOR CLERK'S USE

BOARD ACTION: <input type="checkbox"/> Approved <input type="checkbox"/> Approved as amended <input type="checkbox"/> Adopted <input type="checkbox"/> Adopted as amended <input type="checkbox"/> Denied <input type="checkbox"/> Other <input type="checkbox"/> No Action Taken	<input type="checkbox"/> Set public hearing For: _____ <input type="checkbox"/> Direction to: _____ <input type="checkbox"/> Referred to: _____ <input type="checkbox"/> Continued to: _____ <input type="checkbox"/> Authorization given to: _____	Resolution 2020- _____ Agreement 2020- _____ Ordinance _____ Vote: Ayes: Noes: Abstain: Absent: <input type="checkbox"/> By Consensus
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COMMENTS:

CLERK TO THE BOARD _____	DATE _____
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FOR STORM DAMAGE REPAIR AT FOUR LOCATIONS ON
MOUNTAIN HOUSE ROAD IN SIERRA COUNTY, NEAR DOWNIEVILLE, CA
MOUNTAIN HOUSE ROAD LOCATION 1 FEDERAL PROJECT NO.: 32LO(484)
MOUNTAIN HOUSE ROAD LOCATION 2 FEDERAL PROJECT NO.: 32LO(485)
MOUNTAIN HOUSE ROAD LOCATION 3 FEDERAL PROJECT NO.: 32LO(486)
MOUNTAIN HOUSE ROAD LOCATION 4B FEDERAL PROJECT NO.: 32LO(487)

BID OPENING January 9, 2020 at 3:01 PM

Bidder	Bid Amount Location 1	Bid Amount Location 2	Bid Amount Location 3	Bid Amount Location 4B	Bid Amount Total
Judd Buick Construction Inc.	\$ 105,564.50	\$ 102,041.00	\$ 133,405.00	\$ 75,250.00	\$ 416,260.50
ETIC Consultant Engineering Construct	\$ 105,100.50	\$ 103,134.00	\$ 123,359.00	\$ 118,229.00	\$ 449,822.50
Hansen Brothers Enterprises Inc.	\$ 111,482.00	\$ 125,906.00	\$ 156,626.00	\$ 140,570.00	\$ 534,584.00
Folchi Logging & Construction Inc.	\$ 125,792.50	\$ 129,729.00	\$ 168,507.00	\$ 112,330.00	\$ 536,358.50
Steelhead Constructors Inc.	\$ 126,655.00	\$ 135,929.50	\$ 166,714.50	\$ 165,172.00	\$ 594,471.00
K.P. Martin Inc.	\$ 150,983.00	\$ 155,619.00	\$ 170,030.00	\$ 154,365.00	\$ 630,997.00
Meyers Earthwork Inc.	\$ 153,138.00	\$ 152,293.00	\$ 193,722.00	\$ 198,400.00	\$ 697,553.00
Escheman Construction	\$ 147,247.36	\$ 147,633.04	\$ 264,988.96	\$ 201,787.50	\$ 761,656.86
Patterson Taber General Engineering Inc.	\$ 151,585.87	\$ 177,312.11	\$ 204,508.38	\$ 245,027.80	\$ 778,434.16
Cal Neva Construction Services	\$ 172,265.00	\$ 182,057.50	\$ 245,532.50	\$ 189,260.00	\$ 789,115.00
MKD Construction	\$ 157,580.00	\$ 185,110.00	\$ 282,765.00	\$ 242,545.00	\$ 868,000.00
F.W. Carson Company	\$ 175,401.00	\$ 185,026.00	\$ 269,486.00	\$ 281,256.00	\$ 911,169.00

BOARD OF SUPERVISORS, COUNTY OF SIERRA, STATE OF CALIFORNIA

**IN THE MATTER OF AWARD OF CONTRACT TO
LOWEST QUALIFIED BIDDER FOR
MOUNTAIN HOUSE ROAD STORM DAMAGE REPAIR, FEDERAL AID
PROJECT NOS. 32LO(484), 32LO(485), 32LO(486), & 32LO(487)**

RESOLUTION NO. 2020-_____

WHEREAS, the County of Sierra has heretofore called for sealed bids for the project referred to as the Mountain House Road Storm Damage Repair, Federal Aid Project Nos. 32LO(484), 32LO(485), 32LO(486), & 32LO(487); and

WHEREAS, in response to the formal call for bids, seven were received; and

WHEREAS, the contract shall be awarded to the lowest qualified responsible bidder;
and

WHEREAS, bid opening was held at 3:01 p.m. on Wednesday, January 9, 2020; and,

WHEREAS, after analysis of the bid it has been determined that Judd Buick Construction, Inc. has submitted the lowest qualified bid.

NOW THEREFORE, BE IT RESOLVED THAT the award of contract to Judd Buick, Inc. is hereby approved.

BE IT FURTHER RESOLVED THAT the Director of Transportation is hereby granted authority to administratively approve construction change orders on the referenced contract as necessary, and within the confines of the funding, cumulative total of which is not to exceed 10% of the construction contract.

ADOPTED by the Board of Supervisors of the County of Sierra on the 4th day of February, 2020 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

COUNTY OF SIERRA

JAMES BEARD, CHAIRMAN
BOARD OF SUPERVISORS

ATTEST:

APPROVED AS TO FORM:

HEATHER FOSTER
CLERK OF THE BOARD

DAVID PRENTICE
COUNTY COUNSEL

**COUNTY OF SIERRA
PUBLIC WORKS CONTRACT
SHORT FORM**

PARTIES

THIS CONTRACT, made this 4th day of February, 2020, by and between the COUNTY OF SIERRA, a political subdivision of the State of California, hereinafter referred to as “**County**” and **Judd Buick Construction, Inc.**, hereinafter referred to as “**Contractor**”.

This contract is for the following project:

**Mountain House Road Storm Damage Repair, Federal Aid
Project Nos. 32LO(484), 32LO(485), 32LO(486), & 32LO(487)**

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, it is hereby agreed as follows:

TERMS & CONDITIONS

1. SCOPE OF WORK:

The work to be performed includes but is not limited to provisions of all equipment, materials, and labor necessary for work to be performed in accordance with Plans and Specifications included in this bid package.

2. CONTRACT TIME:

2.1 COMMENCEMENT AND COMPLETION

The Work shall be commenced on the date specified in the County's “Notice of Award to Contractor” and shall be fully completed no later than eighty **(80) working days** thereafter, or such additional time as may have been provided by Change Order, pursuant to the Contract Documents.

2.2 TIME IS OF THE ESSENCE

Time is of the essence. If the work is not completed in the time specified, including such extensions of time as may have been granted for unavoidable delays, the Contractor will be assessed damages for delay in accordance with the liquidated damages provision herein. A determination of whether delays were avoidable or not shall be made by County.

3. CONTRACT PRICE:

County shall pay Contractor for the full and complete performance of this Contract the sum of four hundred sixteen thousand two hundred sixty and 50/100 (\$416,260.50).

The contract price may be adjusted only as provided in the Contract Documents and only upon the express written approval of the County Board of Supervisors or the County Director of Transportation and in the event of any such adjustment, the Contractor agrees that the maximum adjustment to be attributable to his overhead and profit shall not exceed fifteen percent (15%) of the actual costs to Contractor for any additional work encompassed by any such adjustment, in accordance with the General Conditions.

4. PAYMENTS:

4.1 PROGRESS PAYMENTS

Where the work is anticipated to require more than forty-five (45) days to complete, Contractor may apply for progress payments on a monthly basis. Monthly progress payments shall be made in accordance with the General Conditions of these Contract Documents, subject to a ten percent (10%) withhold as specified therein Contractor shall submit a signed application for payment covering the work completed to that date and accompanied by supporting documentation to County's satisfaction. Progress payments will be in an amount equal to ninety percent (90%) of the work completed.

4.2 FINAL PAYMENT

Payment in full for the completed project will not be due until at least thirty (30) days after filing of the Notice of Completion with the County Clerk. Acceptance of final payment will be deemed a waiver of all claims except those which were timely made pursuant to the claims provisions of this contract. Final payment shall be made in accordance with the General Conditions of these Contract Documents.

4.3 INVOICE CONTENT

Invoices or applications for payment to the County shall be detailed and shall contain full documentation of all work performed and all reimbursable expenses incurred. Where the scope of work on the contract is divided into various tasks, invoices shall detail the related expenditures accordingly. Labor expenditures need documentation to support time, subsistence, travel and field expenses. No expense will be reimbursed without adequate documentation. This documentation will include, but not be limited to, receipts for material purchases, rental equipment and subcontractor work.

4.4 ACCEPTANCE OF FINAL PAYMENT AS RELEASE

The acceptance by the Contractor of final payment shall be and shall operate as a release to the County of any and all claims and all liability to the Contractor for all things done or furnished in connection with this work and for every act and/or neglect of the County or others relating to or arising from the Work, to the full extent authorized by Public Contracts Code Section 7100. No payment, however, final or otherwise, shall operate to release the Contractor of his sureties from any obligations under this Contract or the Performance and Payment Bonds required by this Contract, or the guarantees and warranties required by the Contract Documents, or the bond securing the same.

5. CONTRACT DOCUMENTS:

The contract documents comprise the entire agreement between the parties and may be amended only by writing signed by both parties or by written change order. The contract documents shall include this contract, plans and specifications, bidding documents, addenda thereto, all proposals submitted by Contractor, the general conditions attached hereto and special, and/or supplementary conditions issued by the County. In the case of ambiguity or conflict, the documents shall be given the following priority:

- This Agreement
- Contract Drawings
- Technical Specifications
- Duly issued Addenda
- General and/or Special Conditions
- Supplementary conditions, if any
- Duly issued Clarifications and Field Orders
- Duly issued Work Authorizations
- Duly issued Change Orders
- Supplemental Drawings issued pursuant to Article 4 of the General Conditions
- Initial Submittals approved pursuant to Article 3 and all other submittals approved pursuant to the General Conditions.
- Contractor's Bid Proposal Contractor's Guarantee and Bond
- Designation of Subcontractors
- Performance Bond
- Payment Bond

Such documents, collectively referred to as the "Contract Documents", are hereby incorporated herein by this reference and made a part hereof.

6. PERFORMANCE AND LABOR & MATERIAL BONDS:

Pursuant to the provisions of the California Civil Code Section 9550, for projects in excess of twenty five thousand dollars (\$25,000), the Contractor shall, prior to the performance of any work covered by this Contract, provide to County in such form as may be acceptable to County, a “performance bond” guaranteeing the faithful and timely performance of the work to be performed under this Contract and guaranteeing the work for a period of one full year from the date of the completion of the work (which shall be evidenced by the filing of a notice of completion by County) and a separate “labor and material bond” guaranteeing payment to any laborer, subcontractor and/or material supplier for the work under this Contract. The amount of each of these bonds shall be in accordance with the General Conditions to the Contract.

7. REPRESENTATIONS BY CONTRACTOR:

The Contractor hereby represents that before bidding, he carefully examined the Drawings and Project Manual, visited the Site of the Work and fully informed himself as to all existing conditions at the Site and limitations of information provided by the County regarding the Site.

The Contractor further represents that he has satisfied himself as to the nature and location of the Work, the general and local conditions, conditions of the Site, availability of labor, materials on the Site, the kind of equipment needed, the requirements of various trades or crafts needed to perform the Work and all other matters which in any way affect the Work or cost. The Contractor agrees that his failure to acquaint himself with all available information concerning conditions shall not relieve him from his bid or his responsibility for estimating properly the difficulties or cost of the Work, or the requirements for any trade, craft or portion of the Work.

The Contractor further represents that the Contract Price shall include everything necessary for the completion of Work and of fulfillment of this Agreement for Construction within the time specified hereby, including, but not limited to, furnishing all materials, equipment, tools, plant and other facilities, and all management, superintendence, labor, and services. The Contract Price includes allowance for all Federal, State and local taxes and payment of the prevailing wages required by applicable law and/or the General Conditions.

8. AMENDMENT:

This Contract may only be amended by a written amendment which shall require the formal approval of the Board of Supervisors. No County officer, agent or representative shall have the authority to amend this Contract.

9. DELAY:

The Contractor specifically acknowledges and agrees that a time extension is his sole remedy for delays caused by the County, and agrees to make no claim for additional damages for such delay. Contractor shall be entitled to a price adjustment with such time extension Change Order, but such price adjustment shall be limited to his direct additional costs to perform the Contract, subject to the General Conditions, and subject to verification by the County.

Processing of Submittals, Clarifications and other information by the County within the time specified in the Contract Documents shall in no event constitute a County-caused delay.

10. NOTICES:

Any notice, demand, request, consent, approval or communication that any party desires or is required to give any other party shall be in writing and either served personally or sent by pre-paid first-class mail. Any such writing shall be addressed as follows:

COUNTY

Tim H. Beals, Project Director
Sierra County Department of Public Works
Post Office Box 98
Downieville, CA 95936

PROJECT ENGINEER

Joachim Siemers, P.E.
MGE Engineering, Inc.
7415 Greenhaven Drive, Suite 100
Sacramento, CA 95831

PROJECT CONTRACTOR

J. Judd Buick, President
Judd Buick Construction, Inc.
P.O. Box 494564
Redding, CA 96049

11. LIQUIDATED DAMAGES:

If the Work is not completed by Contractor in the time specified in Section 2 of the Agreement for Construction, or within any period of extension authorized pursuant to a duly issued Change Order, Contractor acknowledges and admits that the County will suffer damage, and that it is impracticable and infeasible to fix the amount of actual damages. Therefore, it is agreed by and between the Contractor and the County that the Contractor shall pay to the County as fixed and liquidated damages, and not as a penalty, a sum equal to one-half of one percent of the contract price, or the sum of **Four Thousand Three Hundred Forty** dollars (**\$4,340.00**), whichever is greater, for each calendar day of delay until the Work is completed and accepted, and that both Contractor and Contractor's surety shall be liable for the total amount thereof, and that the County may deduct said sums from any monies due or that may become due to Contractor, prior to determining the final amount due to Contractor.

This liquidated damages provision shall apply to all delays of any nature whatsoever, save and except only delays found by the Board of Supervisors to be unavoidable pursuant to the General Conditions, or time extensions granted in writing by the Board of Supervisors.

IN WITNESS WHEREOF, the parties hereto executed this Agreement the day and year first above written.

COUNTY OF SIERRA

By _____
JAMES BEARD
Chairman of the Board of Supervisors

ATTEST:

APPROVED AS TO FORM:

HEATHER FOSTER
Clerk of the Board

DAVID PRENTICE
County Counsel

CONTRACTOR

By _____
Official Title

License Number _____

(CORPORATE SEAL)

CORPORATE CERTIFICATE

I, _____, certify that I am the Secretary of the Corporation named as CONTRACTOR in the foregoing Contract; that _____, who signed said Contract on behalf of said Corporation is authorized to fully bind the corporation to this Agreement; that said contract was duly signed for and on behalf of said corporation by authority of its governing body and is within the scope of its corporate powers.

(Secretary)

(CORPORATE SEAL)

GENERAL CONDITIONS

1. CHANGES IN THE WORK:

County may order additions, deletions or revisions in the work which shall be authorized by written change order. Circumstances may occur where Contractor may need to apply for a change in the contract. Such changes must be applied for in writing in advance by Contractor and approved prior to doing of the additional work. Changes in contract price due to change orders shall be established either by (1) unit prices (where bidding was done by unit price), (2) based on the actual cost of the work (including but not limited to all labor and materials) plus an amount not to exceed 15 percent (15%) for overhead and profit together, or (3) by mutual acceptance of a lump sum.

2. BONDS:

A. For projects involving more than \$25,000 the contractor shall furnish two bonds each in the amount of 100 percent (100%) of the contract price, one as security for the faithful performance of the work, and the other as security for the faithful payment and satisfaction of all persons furnishing materials and performing labor for the project. The labor and materials bonds shall remain in effect until the recording of a Notice of Completion. The performance bond shall remain in effect until the running of the warranty period. The bonds shall be issued by a corporation duly licensed to transact surety business in California. The bonds must be executed by a duly licensed surety company and accompanied by a certified copy of the authority to act and shall be on the form provided by County.

B. In the event of a default by contractor, County shall notify contractor of the specifics of the default and shall extend a reasonable time to contractor to cure same or to pay such damages as County may reasonably assess under the terms of the Public Works Contract. County shall not release the bonds or security until contractor has fully performed under the contract. If contractor fails to promptly cure any breach or to pay such damages as may have been reasonably assessed after notification of the breach and/or of the assessment of damages, County shall proceed to sell the securities and/or make demand on the bonds.

C. County reserves the right to accept or to reject the tender of any bond or security as being sufficient to protect the interest of the County.

3. CONTRACTOR LIABILITY AND INSURANCE:

Contractor shall be liable for all damages and injury which shall be caused to County or any other property on or in the vicinity of the work or which shall occur to any person or persons or property whatsoever arising out of the performance of this contract. Contractor shall purchase and maintain such commercial general liability and other insurance as is appropriate and/or as may be required in the special conditions, for the work being performed and furnished and which will provide complete protection to County. Said policies shall be payable on a "per occurrence" basis unless County specifically consents to a "claims made" basis. At a minimum Contractor shall provide and maintain a policy of commercial general liability insurance in a combined single limit of two million dollars (\$2,000,000.00) and Worker's Compensation Insurance.

Where the services to be provided under this contract involve or require the use of any type of vehicle by Contractor in order to perform said services, Contractor shall also provide comprehensive business or commercial automobile liability coverage including non-owned and hired automobile liability in the amount of one million dollars (\$1,000,000.00).

County shall be a named insured and a certificate of insurance and endorsements shall be provided by Contractor prior to commencement of work. Contractor shall also purchase and maintain property insurance upon the work or equipment and supplies stored at the site, if any, to the full insurable value thereof. All policies of insurance shall contain a provision that the coverage will not be canceled, materially changed, or renewal refused until at least thirty (30) days prior written notice has been given to County. If a loss occurs, the above insurance shall be primary.

4. RISK OF LOSS:

Liability for loss or damage to equipment, materials, work completed or services occurring on or off the site shall be the responsibility of Contractor. Liability for completed work shall not be assumed by County until both the work has been completed and County has accepted the work as complete.

5. MATERIALS AND EQUIPMENT:

All material and equipment shall be of good quality and new unless the contract provides otherwise. Whenever materials or equipment are specified or described in the contract documents by using the name of a proprietary item or a particular supplier, it is intended to establish the type, function and quality required. Any substitutions must be expressly consented to by County in advance of installation or use.

Where applicable, Contractor shall deliver all manufacturer's operating and maintenance instructions to County prior to receipt of final payment.

6. WARRANTY AND CORRECTION PERIOD:

If within one year after the date of completion and County's acceptance of the work or such longer period of time as may be prescribed by law or regulations or by the terms of any applicable special guarantee required by the contract documents any work is found to be defective, Contractor shall promptly, without cost to County and in accordance with County's written instruction, either correct such defective work, or, if it has been rejected by County, remove it from the site and replace it with non-defective work. If Contractor is unable to promptly and properly correct any defective work, County may at its option have the work corrected by such other means as County deems appropriate and hold Contractor liable for all direct, indirect and consequential costs caused by such defective work. Said warranty shall apply to all work found to be "defective" which is attributable to the quality or quantity of the materials used, the quality of the workmanship or for lack of proper performance under the contract. The warranty obligation shall not limit the County's right to otherwise seek damages in the event of any failure by Contractor to properly perform under this Agreement.

7. PERMITS AND TAXES:

Unless otherwise provided in the special contract provisions, Contractor shall obtain and pay for all construction permits, licenses or other permits necessary to complete the work and shall be liable for all governmental charges, inspection fees, utility connection charges, sales, consumer, use and other taxes.

8. INDEMNIFICATION:

Contractor shall fully indemnify, hold harmless and defend County and its consultants, agents, officers and employees from and against all claims, damages, losses and expenses, direct, indirect or consequential

arising out of or resulting from the negligent performance of the work herein or willful misconduct by Contractor.

9. SUSPENSION OF WORK:

County may, at any time and without cause, suspend the work or any portion thereof for a reasonable period of time by notice in writing to Contractor.

10. TERMINATION:

Except as limited by law or regulation, County may terminate this contract upon the occurrence of any one or more of the following events.

- A. If Contractor commences a voluntary case under any chapter of the Bankruptcy Code (Title 11, United States Code), as now or hereafter in effect, or if Contractor takes any equivalent or similar action by filing a petition or otherwise under any other federal or state law in effect at such time relating to the bankruptcy or insolvency;
- B. If a petition is filed against Contractor under any chapter of the Bankruptcy Code as now or hereafter in effect at the time of filing, or if a petition is filed seeking any such equivalent or similar relief against Contractor under any other federal or state law in effect at the time relating to bankruptcy or insolvency;
- C. If Contractor makes a general assignment of its obligations and/or compensation under this Agreement;
- D. If a trustee, receiver, custodian or agent of Contractor is appointed under applicable law or under contract, whose appointment or authority to take charge of property of Contractor is for the purpose of enforcing a lien against such property or for the purpose of general administration of such property for the benefit of Contractor's creditors;
- E. If Contractor admits in writing an inability to pay its debts generally as they become due;
- F. If Contractor persistently fails to perform the work in accordance with the contract documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the time schedule);
- G. If Contractor disregards ordinances, laws or regulations of any public body having jurisdiction;
- H. If Contractor disregards the authority of County's supervisory staff, and, in particular, the Contract Administrator;
- I. If Contractor otherwise violates in any substantial way any provisions of the contract documents.

County may, after giving Contractor seven days' written notice, terminate the services of Contractor, exclude Contractor from the site and take possession of the work, incorporate in the work all materials and equipment stored at the site or for which County has paid Contractor but which are stored elsewhere, and finish the work as County may deem expedient. In such case Contractor shall not be entitled to receive any further

payment until the work is finished. If the unpaid balance of the contract price exceeds the direct, indirect and consequential costs of completing the work (including but not limited to fees and charges of engineers, architects, attorneys and other professionals and court costs) such excess will be paid to Contractor. If such costs exceed such unpaid balance, Contractor shall pay the difference to County. When exercising any rights or remedies under this paragraph, County shall not be required to obtain the lowest price for the work performed. Where Contractor's services have been so terminated by County, the termination will not affect any rights or remedies of County against Contractor then existing or which may thereafter accrue. Any retention or payment of moneys due Contractor by County will not release Contractor from liability.

Upon seven days' written notice to Contractor, County may, without cause and without prejudice to any other right or remedy, elect to abandon the work and terminate the Contract. In such case, Contractor shall be paid for all work executed and any actual expense sustained.

11. SUPERVISION AND CLAIMS DETERMINATIONS:

11.1 CONTRACT ADMINISTRATOR

County may appoint staff or hire professional services for supervision and administration, at its election. Said person is hereinafter referred to as "Contract Administrator". Upon the appointment of any such Contract Administrator the County shall promptly notify Contractor of such action. The Contract Administrator is delegated authority to determine the amount, quality, acceptability and fitness of the work, materials and equipment to be paid for under this contract, to decide for County all questions relative to contract interpretation, to reject or condemn all work or material which does not conform to the terms of this contract and to review and make a final determination on all claims submitted to County. In the absence of an appointment of a Contract Administrator, the County Director of Public Works shall perform these functions.

11.2 WRITTEN CLARIFICATION

If there is an ambiguity in the contract documents, Contractor shall request an interpretation from the Contract Administrator. Contractor Administrator shall issue a written clarification or interpretation. If Contractor believes that a written clarification or interpretation justifies an increase in the contract price or an extension of the contract time and the parties are unable to agree on the amount or extent thereof, Contractor may make a claim therefore.

11.3 CHANGE ORDER

The Contract Administrator may authorize or require variations in the work from the requirements of the contract documents so long as it is in writing. Contractor shall perform the work involved promptly. If Contractor believes that such a change order justifies an increase in the contract price or an extension of the contract time and the County and Contractor are unable to agree as to the amount or extent thereof, Contractor may make a claim therefore.

11.4 UNIT PRICING

If the contract was based on unit pricing, the Contract Administrator will determine the actual quantities and classifications of unit price work. The Contract Administrator's written decisions thereon will be final and binding upon Contractor unless Contractor delivers to Contract Administrator written notice that Contractor disputes said decision and the reasons therefore as required below.

11.5 CLAIM PROCEDURE

For purposes of this paragraph, "claim" shall be defined as set forth in Public Contracts Code Section 20104(b)(2). Claims shall be presented in writing and include the documents necessary to substantiate the claim. Claims must be filed with the Contract Administrator no later than thirty (30) days after the occurrence of the event giving rise thereto or denial of the change order, whichever occurs last. The form of said claims shall be the same as is required by Government Code Sections 910 and 910.2.

11.6 CLAIMS UNDER \$50,000

If the claim is under \$50,000, County shall respond in writing to Contractor within forty-five (45) days of receipt of Contractor's claim or may request, in writing, within thirty (30) days of receipt of the claim, any additional documentation supporting the claim or relating to defenses or claims the County may have against the Contractor. If additional information is thereafter required, it shall be requested and provided pursuant to Public Contracts Code Section 20104.2, upon mutual agreement of the County and the Contractor. The County's written response to the claim, as further documented, shall be submitted to the Contractor within fifteen (15) days after receipt of the further documentation or within a period of time no greater than that taken by the Contractor in producing the additional information, whichever is greater.

11.7 CLAIMS OVER \$50,000

For claims over \$50,000 and less than or equal to \$375,000, County shall respond in writing to all written claims within sixty (60) days of receipt of the claim, or may request, in writing within thirty (30) days of receipt of the claim, any additional documentation supporting the claim or relating to defenses or claims the County may have against Contractor. If additional information is thereafter required, it shall be requested and provided pursuant to Public Contracts Code Section 20104.2, upon mutual agreement of County and Contractor. The County's written response to the claim, as further documented, shall be submitted to Contractor within thirty (30) days after receipt of the further documentation, or within a period of time no greater than that taken by Contractor in producing the additional information or requested documentation, whichever is greater.

11.8 MEET AND CONFER

If Contractor disputes County's written response, or County fails to respond within the time prescribed above, Contractor may so notify County, in writing, either within 15 days of receipt of County's response or within fifteen (15) days of County's failure to respond within the time prescribed, respectively, and demand an informal conference to meet and confer with such County representatives as the Board of Supervisors directs for settlement of the issues in dispute. Upon such demand, County shall schedule a meet and confer conference within thirty (30) days for settlement of the dispute.

11.9 APPEAL TO BOARD OF SUPERVISORS

If following the meet and confer conference the claim or any portion remains in dispute, if Contractor desires to pursue Contractor's claim/demand for further compensation, Contractor shall be required to file a claim with the Board of Supervisors pursuant to procedures set out in Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division

3.6 of Title 1 of the Government Code. All claims filed with the Board of Supervisors pursuant to the Government Code shall be filed within ninety (90) days of the denial of the original claim by the County representative. The running of the period of time within which a claim under the Government Code must be filed shall be tolled by any period of time utilized by the meet and confer conference. Any lawsuit which Contractor intends to bring with respect to any claim filed pursuant to the Government Code which claim has been denied by County must be commenced not later than six months after the recording of the notice of completion or not later than six months after the date final payment is deposited in the mail or personally delivered, whichever date comes first.

11.10 DOCUMENTATION

For every claim that Contractor makes, it shall provide the following documentation upon request of County as a condition precedent to consideration of the claim: Contractor's bidding calculations forms, cost estimates, time sheets, trend reports, job cost analysis records, labor records, as-built documents, any other records used by Contractor in arriving at its bid price, and any other documents or records kept by Contractor during the course of construction. In the event that claims are made, Contractor agrees that County shall have the right to conduct a complete audit of the books and records of Contractor relating to this project and any books and records relating to overhead, profit or general office expenses charged to this project.

11.11 CONTRACT ADMINISTRATOR NOT RESPONSIBLE

Notwithstanding the above, Contract Administrator shall not be responsible for Contractor's means, methods, techniques, sequences or procedures of construction or the safety precautions and programs incident thereto and will not be responsible for Contractor's failure to perform or furnish the work in accordance with the contract documents. Contract Administrator shall also not be responsible for the acts or omissions of Contractor or of any subcontractor, any supplier, or any other person or organization performing or furnishing any of the work.

12. PAYMENTS:

12.1 SCHEDULE OF VALUES

The schedule of values established for the work will serve as the basis for progress payments and will be incorporated into a form of application for payment acceptable to County. Progress payments on account of unit price work will be based on the number of units completed.

12.2 PROGRESS PAYMENT

Once each month County shall cause an estimate to be made covering the work completed as of the date of the estimate. No materials shall be paid for until incorporated into the work. The amount of retention with respect to progress payments will be five percent (5%).

12.3 AMOUNTS OF PROGRESS PAYMENTS

Prior to completion, progress payments will be in an amount equal to:

12.3.1 NINETY FIVE PERCENT (95%) OF COMPLETED WORK. Ninety percent (95%) of the work completed, and

12.3.2 NINETY PERCENT (95%) OF STORED MATERIALS. Where applicable pursuant to the above, ninety percent (95%) of materials and equipment not incorporated in the work but delivered and suitably stored, less in each case the aggregate of payments previously made.

12.3.3 CONTRACT BALANCE. Thirty (30) days after recordation of a notice of completion by the County, County will pay an amount sufficient to increase total payments to Contractor to one hundred percent (100%) of the contract price, less such amounts as County shall determine in accordance with this contract. County reserves the right to retain such funds as it shall determine in accordance with the contract documents to complete the work.

12.3.4 ESCROWED SECURITY ALTERNATION. The Contractor may elect to receive one hundred percent 100% of payments due under this contract from time to time, without retention of any portion of the payment by the public agency, by depositing securities of equivalent value with County in accordance with the provisions of Section 4590 of the *California Government Code*. Securities eligible for investment shall include those listed in Section 16430 of the *California Government Code*, or bank or savings and loan certificates of deposits. Such securities, if deposited by the bidder, shall be valued by County whose decision on the valuation of the securities shall be final. The bidder shall be the beneficial owner of any securities substituted for money withheld and shall receive any interest thereon. Said deposited funds shall be covered by an escrow agreement in a form approved by the County.

12.4 CONTRACTOR'S WARRANTY OF TITLE

Contractor warrants and guarantees that title to all work, materials and equipment covered by any application for payment, whether incorporated in the project or not, will pass to County no later than the time of payment free and clear of all liens.

12.5 PAYMENT OF PROGRESS PAYMENT

County will submit each progress pay estimate to Contractor. Upon receipt back from Contractor of a signed copy of the pay estimate, County shall process the pay estimate for payment. The amount approved by County will become due thirty (30) days after receipt of the signed progress pay estimate. Said payment shall be made by County to Contractor unless County has knowledge of claims or liens filed in connection with the work.

12.6 COUNTY'S RECOMMENDATION OF PAYMENT

By recommending any payment, Contractor cannot conclude that County represents that exhaustive or continuous on-site inspections have been made to check the quality or the quantity of the work in the contract documents or that there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by County or County to withhold payment to Contractor.

12.7 COUNTY MAY REFUSE TO MAKE PAYMENT

County may refuse to make payment of the full amount or any part if, in County's opinion, it would be incorrect to make such payment. County may also refuse to make any such payment, or,

because of subsequently discovered evidence or the results of subsequent inspections or tests, nullify any such payment previously recommended, to such extent as may be necessary in County's opinion to protect County from loss because:

12.7.1 DEFECTIVE WORK. The work is defective, or completed work has been damaged requiring correction or replacement,

12.7.2 REDUCTION IN PRICE. The contract price has been reduced by written amendment or change order,

12.7.3 REQUIRED CORRECTIONS. Contractor has been required to correct defective work or complete work, or

12.7.4 SUSPENSION OR TERMINATION. Of County's actual knowledge of the occurrence of any of the events enumerated in paragraphs relating to suspension of work and termination.

12.7.5 LIENS OR CLAIMS. County may refuse to make payment of the full amount because claims have been made against County on account of Contractor's performance or furnishing of the work or liens have been filed in connection with the work or there are other items entitling County to a set-off against the amount recommended, but County must give Contractor immediate written notice stating the reasons for such action.

12.8 COMPLETION AND FINAL INSPECTION

When Contractor considers the entire work ready for its intended use, Contractor shall notify County in writing that the entire work is completed. Within a reasonable time thereafter, County and Contractor shall make an inspection of the work to determine the status of completion. If County does not consider the work complete, County will notify Contractor in writing giving the reasons therefor. If County considers the work incomplete, County will prepare and deliver a list of items to be completed or corrected before final payment. Contractor shall immediately take such measures as are necessary to complete or correct the listed items.

12.9 ACCEPTANCE AND FINAL APPLICATION FOR PAYMENT

After Contractor has completed all such measures to remedy deficiencies to the satisfaction of County and delivered all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, marked-up record documents, property owner's releases and other documents, all as required by the contract documents, and after County has indicated that the work is acceptable, Contractor may make application for final payment. The final application for payment shall be accompanied by all documentation called for in the contract documents, together with complete and legally effective releases or waivers (satisfactory to County) of all liens and stop notices arising out of or filed in connection with the work. In lieu thereof and as approved by County, Contractor may furnish receipts or releases in full; an affidavit of Contractor that the releases and receipts include all labor, services, material and equipment for which a lien could be filed, and that all payrolls, material and equipment bills, and other indebtedness connected with the work for which County or County's property might in any way be responsible, have been paid or otherwise satisfied; and consent of the surety, if any, to final payment. If any subcontractor or supplier fails to furnish a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to County to indemnify County

against any lien.

12.10 FINAL PAYMENT

If, on the basis of County's review of the final application for payment and accompanying documentation, all as required by the contract documents, County is satisfied that Contractor's obligations under the contract documents have been fulfilled, County will, within ten days after receipt of the final application for payment, process the application for payment. Otherwise, County will return the application to Contractor, indicating in writing the reasons for refusing to make final payment, in which case Contractor shall make the necessary corrections and resubmit the application. Thirty (30) days after presentation to County of the application and accompanying documentation, in appropriate form and substance, or thirty (30) days after recording of a Notice of Completion, whichever date is later, the amount will become due and will be paid by County to Contractor.

12.11 CONTRACTOR'S CONTINUING OBLIGATION

Contractor's obligation to perform and complete the work in accordance with the contract documents shall be absolute. Neither the issuance of a certificate of substantial completion, nor any payment by County to Contractor under the contract documents, nor any use or occupancy of the work or any part thereof by County, nor any act of acceptance by County nor any failure to do so, nor any review and approval of a shop drawing or sample submission, nor the issuance of a notice of acceptability, nor any correction of defective work by County will constitute an acceptance of work not in accordance with the contract documents or a release of Contractor's obligation to perform the work in accordance with the contract documents.

13. ARBITRATION:

For claims under \$375,000, County shall have the option of electing arbitration pursuant to Public Contracts Code Sections 10240, et seq. If County does not so elect, the provisions of Public Contracts Code Section 20104 shall apply. For claims which are above \$375,000, the arbitration provisions of this contract are voluntary. Neither County nor Contractor shall be required to enter into arbitration for amounts above \$375,000. Written consent of both parties to arbitrate such claims shall be a prerequisite to such arbitration. If the parties agree to arbitrate claims above \$375,000, the provisions of Public Contracts Code Sections 10240, et seq. shall be utilized.

14. WORKER'S COMPENSATION CERTIFICATION:

Contractor hereby certifies that Contractor is aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of that Code, and will comply with such provisions before commencing the performance of the work of this contract.

15. PREVAILING WAGE RATES:

In accordance with the provisions of Section 1770 and 1773 of the Labor Code, the County of Sierra has determined the general prevailing rate of wages applicable to the work to be done. These rates are on file in the Department of Transportation. The Contractor shall post a copy of the wage rates on the job site. Pursuant to California Labor Code Section 1775, Contractor shall forfeit twenty-five dollars (\$25.00) for each calendar day, or portion thereof, for each worker paid less than the prevailing rates for such work or craft, and

said amounts shall be distributed pursuant to the requirements of said Section 1775. Any employee whose type of work is not covered by any of the classified wage rates shall be paid not less than the rate of wage listed for the classification which most nearly corresponds to the type of work to be performed.

In accordance with the provisions of Section 1813 of the California Labor Code, Contractor will be subject to the forfeiture of twenty-five dollars (\$25) per worker employed in the execution of the contract by the Contractor or subcontractor for each day said worker is required or permitted to work in excess of eight hours in any one calendar day and/or forty hours in any calendar week, except as provided in Section 1815 of the California Labor Code.

16. EMPLOYMENT OF APPRENTICE LABOR:

Reference is hereby made to Section 1777.5 of the Labor Code of the State of California, which regulations shall govern the employment of apprentices on the work. Compliance with said Section shall be the responsibility of the Contractor.

17. COLLECTIVE BARGAINING AGREEMENTS:

Pursuant to California Labor Code Section 1773.8, Contractor shall pay travel and subsistence payments to any workers covered by applicable collective bargaining agreements which provide for such payments.

18. PAYROLL RECORDS:

Contractor shall be responsible for keeping accurate payroll records as required by California Labor Code Section 1776. Contractor is aware that a penalty of twenty-five dollars (\$25.00) per day or portion thereof for each worker may be assessed for noncompliance with said section. Contractor shall forward to County a certified copy of each payroll record within ten days after close of each payroll period. An additional 10% retention may be withheld from any payment due for failure to provide same.

No contractor or subcontractor may be listed on a bid proposal for a public works project (submitted on or after March 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].

No contractor or subcontractor may be awarded a contract for public work on a public works project (awarded on or after April 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.

This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

19. EQUAL EMPLOYMENT OPPORTUNITY AND NONDISCRIMINATION:

During the performance of this contract, the contractor agrees to abide by all provisions of Section 1735 of the California Labor Code, as amended, regarding nondiscrimination practices.

20. ASSIGNMENT:

No assignment by a party hereto of any rights under or interests in the contract documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without

such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the contract documents.

21. CONFLICT OF INTEREST RESTRICTIONS:

No official of the County who is authorized in such capacity and on behalf of the County to negotiate, make, accept or approve, or to take part in negotiating, making, accepting, or approving any architectural, engineering, inspecting, construction or material supply contract or any subcontract in connection with the construction of the project, shall become directly or indirectly interested personally in this contract or in any part thereof. No officer, employee, architect, attorney, engineer, or inspector of or for the County who is authorized in such capacity and on behalf of the County who is in any legislative, executive, supervisor, or other similar function in connection with the construction of the project, shall become directly or indirectly interested personally in this contract or in any part thereof, any material supply contract, subcontract, insurance contract, or any other contract pertaining to the project.

22. WAIVER OF RIGHTS:

No action or lack of action on the part of County at any time to exercise any right or remedy conferred upon it under this contract shall be deemed to be a waiver on the part of the County of any of County's other rights or remedies.

23. SUCCESSORS IN INTEREST:

County and Contractor each bind themselves, their partners, successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns and legal representatives in respect to all covenants, agreements, and obligations contained in the contract documents.

24. SEVERABILITY:

If any provision to this contract is declared or found to be illegal, unenforceable or void, then both parties shall be relieved of all obligations arising under such provisions, and the remainder of this contract 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.

25. BOOKS OF RECORD AND AUDIT PROVISION:

Contractor shall maintain on a current basis complete books and records relating to this contract. Such records shall include, but not be limited to, documents supporting all bids, all income and all expenditures. The books and records shall be original entry books with a general ledger itemizing all debits and credits for the work on this contract. In addition, Contractor shall maintain detailed payroll records including all subsistence, travel and field expenses, and cancelled checks, receipts and invoices for all items. These documents and records shall be retained for at least five years from the completion of this contract. Contractor will permit County to audit all books, accounts or records relating to this contract or all books, accounts or records of any business entities controlled by Contractor who participated in this contract in any way. Any audit may be conducted on Contractor's premises or, at County's option, Contractor shall provide all books and records within a maximum of fifteen (15) days upon receipt of written notice from County. Contractor shall refund any moneys erroneously charged. If County ascertains that it has been billed erroneously by Contractor for an amount equaling 5% or more of the original bid, Contractor shall be liable for the costs of the audit in

addition to any other penalty to be imposed.

26. NOTICE:

Notices shall be given to County at the following location:

If to "COUNTY":

Board of Supervisors
County of Sierra
Post Office Drawer D
Downieville, CA 95936

With a copy to:

Director of Public Works
P.O. Box 98
Downieville, CA 95936

If to "CONTRACTOR":

J. Judd Buick, President
Judd Buick Construction, Inc.
P.O. Box 494564
Redding, CA 96049

27. JURISDICTION AND VENUE:

This Contract shall be construed in accordance with the laws of the State of California and the parties hereto agree that venue shall be in Sierra County, California.

FORM FHWA-1273

**REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS**

FHWA-1273 -- Revised May 1, 2012

- I. General
 - II. Nondiscrimination
 - III. No segregated Facilities
 - IV. Davis-Bacon and Related Act Provisions
 - V. Contract Work Hours and Safety Standards Act Provisions
 - VI. Subletting or Assigning the Contract
 - VII. Safety: Accident Prevention
 - VIII. False Statements Concerning Highway Projects
 - IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
 - X. Compliance with Government wide Suspension and Debarment Requirements
- Certification Regarding Use of Contract Funds for Lobbying

ATTACHMENTS

- A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.
3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.
4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

II. NONDISCRIMINATION

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. Equal Employment Opportunity: Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

- a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.
- b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. **EEO Officer:** The contractor will designate and make known to the contracting officers and EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting and active EEO program and who must be assigned adequate authority and responsibility to do so.
3. **Dissemination of Policy:** All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:
- a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.
 - b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.
 - c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.
 - d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.
 - e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.
4. **Recruitment:** When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.
- a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.
 - b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.
- c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.
5. **Personnel Actions:** Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:
- a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.
 - b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.
 - c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.
 - d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.
6. **Training and Promotion:**
- a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.
 - b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).
 - c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.
 - d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

FHWA-1273 -- Revised May 1, 2012

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

- a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.
- b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.
- c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.
- d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

3. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

- 3. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment:** The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.
- a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.
 - b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurance Required by 49 CFR 26.13(b):

- a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.
- b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

- a. The records kept by the contractor shall document the following:
 - (1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;
 - (2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and
 - (3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women.
- b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on [Form FHWA-1391](#). The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

FHWA-1273 -- Revised May 1, 2012

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. (1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

- (i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
 - (ii) The classification is utilized in the area by the construction industry; and
 - (iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
- (2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
 - (3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
 - (4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.
- c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.
 - d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

FHWA-1273 -- Revised May 1, 2012

2. Withholding

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid.

Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b. (1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and

current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency.

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

FHWA-1273 -- Revised May 1, 2012

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

3. **Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

3. **Subcontracts.** The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

7. **Contract termination: debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act requirements.

All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.**10. Certification of eligibility.**

a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

- 1. Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- 2. Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

i. **Withholding for unpaid wages and liquidated damages.** The FHWA or the contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

j. **Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).
 - a. The term "perform work with its own organization" refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:
 - (1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
 - (2) the prime contractor remains responsible for the quality of the work of the leased employees;
 - (3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
 - (4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.
 - b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.
3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.
4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.
5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.
2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).
3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.
2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

FHWA-1273 -- Revised May 1, 2012

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200.

1. Instructions for Certification – First Tier Participants:

- a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.
- b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.
- c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause or default.
- d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
 - e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).
 - f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
- g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered

transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

- h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.
 - i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
 - j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

* * *

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

- a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:
 - (1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;
 - (2) Have not within a three-year period preceding this proposal 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;
 - (3) 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 (a)(2) of this certification; and
 - (4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
- b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

FHWA-1273 -- Revised May 1, 2012

2. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200)

- a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.
- b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
- c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.
- d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).
- e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
- f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.
- g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and normally possessed by a prudent person in the ordinary course of business dealings.

- i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

* * * * *

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 (49 CFR 20).

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, 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 Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
 - 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 Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

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

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed information of participant is not required to exceed that which is \$100,000 and that all such recipients shall certify and disclose accordingly.

**Sierra County
Board of Supervisors'
Agenda Transmittal &
Record of Proceedings**

MEETING DATE: February 4, 2020	TYPE OF AGENDA ITEM: <input checked="" type="checkbox"/> Regular <input type="checkbox"/> Timed <input type="checkbox"/> Consent
DEPARTMENT: Public Works and Transportation	
APPROVING PARTY: Tim H. Beals, Director	
PHONE NUMBER: 530-289-3201	

AGENDA ITEM: Amendment to Sierra County Agreement 2018-016 with Bruce Boyd, Architecture & Planning for to extend termination date and update rate sheet for Downieville Community Hall.

SUPPORTIVE DOCUMENTS ATTACHED: Memo Resolution Agreement Other

BACKGROUND INFORMATION: This amendment is to extend the term of the contract and update the contractor's rate sheet. Work has not been completed and the project is in a holding pattern until funding for the next phase (implementation of a plan) is determined.

FUNDING SOURCE: PARKS & RECREATION 50% & DONATION FROM DOWNIEVILLE IMPROVEMENT GROUP 50%

GENERAL FUND IMPACT: General Fund Impact

OTHER FUND:

AMOUNT: \$3,500.00 - No increase to base contract fee with this amendment N/A

ARE ADDITIONAL PERSONNEL REQUIRED? <input type="checkbox"/> Yes, -- -- <input checked="" type="checkbox"/> No	IS THIS ITEM ALLOCATED IN THE BUDGET? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No IS A BUDGET TRANSFER REQUIRED? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
--	---

SPACE BELOW FOR CLERK'S USE

BOARD ACTION: <input type="checkbox"/> Approved <input type="checkbox"/> Approved as amended <input type="checkbox"/> Adopted <input type="checkbox"/> Adopted as amended <input type="checkbox"/> Denied <input type="checkbox"/> Other <input type="checkbox"/> No Action Taken	<input type="checkbox"/> Set public hearing For: _____ <input type="checkbox"/> Direction to: _____ <input type="checkbox"/> Referred to: _____ <input type="checkbox"/> Continued to: _____ <input type="checkbox"/> Authorization given to: _____	Resolution 2020- _____ Agreement 2020- _____ Ordinance _____ Vote: Ayes: Noes: Abstain: Absent: <input type="checkbox"/> By Consensus
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COMMENTS:

CLERK TO THE BOARD

DATE

**AMENDMENT to AGREEMENT
FOR PROFESSIONAL SERVICES
Architectural Services
Downieville Community Hall Renovation – Phase 1**

The following is an amendment to that certain Agreement No. 2018-016 (“Agreement”) with an Effective Date of March 5, 2018, by and between the County of Sierra, a political subdivision of the State of California (“the County”) and **Bruce E. Boyd Architects & Planners**, "Contractor".

1. Provision 2 of the Agreement, pertaining to Term is hereby amended to extended termination date to December 31, 2021.
2. Provision 3 of the Agreement, pertaining to the Payment refers to Attachment B. Attachment B of the Agreement pertaining to “Payment” is hereby amended to incorporated the updated fee scheduled attached hereto as Exhibit 1 to this Amendment.
3. All other terms and conditions of the Agreement to remain the same.
4. This Agreement, with amendments, shall have an Effective Date of January 1, 2020.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date set forth above.

COUNTY OF SIERRA

“CONTRACTOR”

JAMES BEARD
Chairman of the Board

BRUCE BOYD
Bruce Boyd, Architecture & Planning.

ATTEST:

APPROVED AS TO FORM:

HEATHER FOSTER
Clerk of the Board

DAVID PRENTICE
County Counsel

**SIERRA COUNTY
ARCHITECTURAL CONSULTING SERVICES
HOURLY FEE SCHEDULE**

POSITION

PRINCIPAL ARCHITECT	\$120.00
CAD DRAFTSMAN	\$110.00
SPECIFICATION WRITER	\$120.00
CLERICAL STAFF	\$ 90.00

NOTE:

1 Hourly rate based on 30 minute, half hour, increments of time on task.

GENERAL REIMBURSABLE EXPENSES

- 1 Mileage shall be billed at \$0.54 per mile if destination is more than 100 miles round trip from the location of our office.
- 2 Travel time will be billed at one way actual time.
- 3 Printing costs shall be billed at cost x 1.10. Prints for internal office use will not be billed to the client.

**Sierra County
Board of Supervisors'
Agenda Transmittal &
Record of Proceedings**

MEETING DATE: February 4, 2020	TYPE OF AGENDA ITEM: <input checked="" type="checkbox"/> Regular <input type="checkbox"/> Timed <input type="checkbox"/> Consent
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DEPARTMENT: Planning Department
APPROVING PARTY: Tim H. Beals, Director
PHONE NUMBER: 530-289-3251

AGENDA ITEM: Discussion and status report on progress on Department of Conservation Sustainable Agricultural Lands and Conservation Easement Guidelines and on the progress over budget concerns with regard to the State Watermaster Service Area administration for Sierra Valley.

SUPPORTIVE DOCUMENTS ATTACHED: Memo Resolution Agreement Other

BACKGROUND INFORMATION:

FUNDING SOURCE:
GENERAL FUND IMPACT: No General Fund Impact
OTHER FUND:
AMOUNT: \$ N/A

ARE ADDITIONAL PERSONNEL REQUIRED?

Yes, -- --
 No

IS THIS ITEM ALLOCATED IN THE BUDGET? Yes No

IS A BUDGET TRANSFER REQUIRED? Yes No

SPACE BELOW FOR CLERK'S USE

<p>BOARD ACTION:</p> <p><input type="checkbox"/> Approved <input type="checkbox"/> Approved as amended <input type="checkbox"/> Adopted <input type="checkbox"/> Adopted as amended <input type="checkbox"/> Denied <input type="checkbox"/> Other <input type="checkbox"/> No Action Taken</p>	<p><input type="checkbox"/> Set public hearing For: _____</p> <p><input type="checkbox"/> Direction to: _____</p> <p><input type="checkbox"/> Referred to: _____</p> <p><input type="checkbox"/> Continued to: _____</p> <p><input type="checkbox"/> Authorization given to: _____</p>	<p>Resolution 2020- _____ Agreement 2020- _____ Ordinance _____ Vote: Ayes: Noes: Abstain: Absent: <input type="checkbox"/> By Consensus</p>
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COMMENTS:

CLERK TO THE BOARD

DATE

**Sierra County
Board of Supervisors'
Agenda Transmittal &
Record of Proceedings**

MEETING DATE: February 4, 2020	TYPE OF AGENDA ITEM: <input checked="" type="checkbox"/> Regular <input type="checkbox"/> Timed <input type="checkbox"/> Consent
--	---

DEPARTMENT: Public Works and Transportation
APPROVING PARTY: Tim H. Beals, Director
PHONE NUMBER: 530-289-3201

AGENDA ITEM: Project status report on the Sierra Brooks Water System Project.

SUPPORTIVE DOCUMENTS ATTACHED: Memo Resolution Agreement Other

BACKGROUND INFORMATION:

FUNDING SOURCE:
GENERAL FUND IMPACT: No General Fund Impact
OTHER FUND:
AMOUNT: \$ N/A

ARE ADDITIONAL PERSONNEL REQUIRED?

 Yes, -- --
 No

IS THIS ITEM ALLOCATED IN THE BUDGET? Yes No

IS A BUDGET TRANSFER REQUIRED? Yes No

SPACE BELOW FOR CLERK'S USE

<p>BOARD ACTION:</p> <input type="checkbox"/> Approved <input type="checkbox"/> Approved as amended <input type="checkbox"/> Adopted <input type="checkbox"/> Adopted as amended <input type="checkbox"/> Denied <input type="checkbox"/> Other <input type="checkbox"/> No Action Taken	<input type="checkbox"/> Set public hearing For: _____ <input type="checkbox"/> Direction to: _____ <input type="checkbox"/> Referred to: _____ <input type="checkbox"/> Continued to: _____ <input type="checkbox"/> Authorization given to: _____	Resolution 2020- _____ Agreement 2020- _____ Ordinance _____ Vote: Ayes: Noes: Abstain: Absent: <input type="checkbox"/> By Consensus
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COMMENTS:

CLERK TO THE BOARD

DATE

**Sierra County
Board of Supervisors'
Agenda Transmittal &
Record of Proceedings**

MEETING DATE: February 4, 2020	TYPE OF AGENDA ITEM: <input checked="" type="checkbox"/> Regular <input type="checkbox"/> Timed <input type="checkbox"/> Consent
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DEPARTMENT: Public Works and Transportation
APPROVING PARTY: Tim H. Beals, Director
PHONE NUMBER: 530-289-3201

AGENDA ITEM: Second Reading and adoption of ordinance amending the Sierra Brooks Water System regulations in order to conform County regulations to the requirements of the new Sierra Brooks Water System Project.

SUPPORTIVE DOCUMENTS ATTACHED: Memo Resolution Agreement Other
Draft Ordinance

BACKGROUND INFORMATION: First Reading was January 21, 2020.

FUNDING SOURCE:
GENERAL FUND IMPACT: No General Fund Impact
OTHER FUND:
AMOUNT: \$ N/A

ARE ADDITIONAL PERSONNEL REQUIRED?

 Yes, -- --
 No

IS THIS ITEM ALLOCATED IN THE BUDGET? Yes No

IS A BUDGET TRANSFER REQUIRED? Yes No

SPACE BELOW FOR CLERK'S USE

<p>BOARD ACTION:</p> <input type="checkbox"/> Approved <input type="checkbox"/> Approved as amended <input type="checkbox"/> Adopted <input type="checkbox"/> Adopted as amended <input type="checkbox"/> Denied <input type="checkbox"/> Other <input type="checkbox"/> No Action Taken	<input type="checkbox"/> Set public hearing For: _____ <input type="checkbox"/> Direction to: _____ <input type="checkbox"/> Referred to: _____ <input type="checkbox"/> Continued to: _____ <input type="checkbox"/> Authorization given to: _____	Resolution 2020- _____ Agreement 2020- _____ Ordinance _____ Vote: Ayes: Noes: Abstain: Absent: <input type="checkbox"/> By Consensus
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COMMENTS:

CLERK TO THE BOARD

DATE

**BOARD OF SUPERVISORS
COUNTY OF SIERRA
STATE OF CALIFORNIA**

ORDINANCE NO. ____

**ORDINANCE GOVERNING AND PROVIDING REGULATIONS, RULES, RATES,
AND CHARGES GOVERNING THE USE, OPERATION, MAINTENANCE AND
MANAGEMENT OF PROPERTY, PARKS AND RECREATION FACILITIES, STREET
LIGHTS, FACILITIES, EQUIPMENT, EASEMENTS, AND OTHER
RESPONSIBILITIES, INCLUDING THE SIERRA BROOKS PUBLIC WATER
SYSTEM, OF COUNTY SERVICE AREA 5, ZONE 5A**

THE BOARD OF SUPERVISORS OF THE COUNTY OF SIERRA ORDAINS as follows:

Ordinance Section One: Chapter 8.50 and Section 8.60 of the Sierra County Code are hereby amended as provided herein:

Ordinance Section Two: Chapter 8.40 entitled Administration shall be added and enacted as follows:

Chapter 8.40-County Service Area Zone Creation and Administration

Section 8.40.____ - County Service Area Zone Created

The Sierra County Board of Supervisors by its Resolution 672 adopted June 1, 1956, formed Sierra County Service Area 4 pursuant to the County Service Area Law (Government Code Sections 25210.1 and following) and provided for various types of extended services that may be performed within the County Service Area. Subsequently, the Sierra County Board of Supervisors by its Resolution 71-21 adopted April 20, 1971 established Zone 4A with County Service Area 4, which has been renamed County Service Area 5, Zone 5A.

The Sierra County Board of Supervisors shall be the Board of Directors of County Service Area 5, Zone 5A and shall be responsible for setting policy and general administrative procedures of the County Service Area Zone. The General Manager of the County Service Area Zone shall administer and carry out the policies and procedures set by the Board of Directors. The Board of Directors shall maintain minutes of meetings, records of its adoption of any Resolutions, Ordinances, Fees, Policies, and Procedures, and all other appurtenant records and the Clerk of the Board of Directors shall be the Sierra County Clerk. The Board of Directors shall maintain a budget and shall be governed by the same rules and regulations as the County of Sierra and the Treasurer-Tax Collector and the Auditor for the County Service Area Zone shall be the Sierra County Treasurer-Tax Collector and the Sierra County Auditor. The General Manager of the District shall be the County

Director of Public Works/Director of Transportation. The General Manager shall administer, implement, and enforce the provisions of the ordinances of the District and any powers granted to or duties imposed on the General Manager may be delegated by the General Manager to persons in the employ of the County and/or County Service Area Zone.

Ordinance Section Three: Chapter 8.60 of the Sierra County Code entitled “Streets, Drainage Easements, and Recreation and Public Use Easements” shall be added and enacted as follows:

Chapter 8.60-Streets, Drainage Easements, Recreation and Public Use Easements
(Reserved)

Ordinance Section Four: Chapter 8.70 of the Sierra County Code entitled “Street Lights” shall be added and enacted as follows:

Chapter 8.70-Street Lights (Reserved)

Ordinance Section Five: Chapter 8.80 of the Sierra County Code entitled “Parks and Recreation” shall be added and enacted as follows:

Chapter 8.80-Parks and Recreation (Reserved)

Ordinance Section Six: Chapter 8.90 of the Sierra County Code, is hereby enacted as follows:

Chapter 8.90-Sierra Brooks-County Service Area 5, Zone 5A-Water System Regulations

8.90.____ General Policy and Responsibilities

The County Service Area (hereinafter “CSA”) will exercise reasonable care and diligence to deliver to its customers a continuous and sufficient supply of potable water at the required pressure at the point of service connection and to avoid interruptions in service or shortages. The CSA shall not be liable for interruptions, shortages, insufficiency of supply, lack of potable water, fluctuations or variations in pressure, or any loss or damage occasioned thereby.

The entire water system up to the service connection to each individual service, including the water meter assembly, shall be under the exclusive control and management of the CSA. When the CSA finds it necessary or convenient to make repairs or improvements to its system, the CSA shall have the right to temporarily suspend the delivery of water. Repairs or improvements shall be made as rapidly as practical and at such times as will reasonably minimize inconvenience to the customer.

Connections and water use shall be made in accordance with the provisions of the CSA rules, regulations, ordinances, regulations, policies, and specifications. No person shall connect,

substantially increase, or alter the use of water without making application to the CSA, securing a water service permit and paying applicable charges. No person other than duly authorized representatives of the CSA or Fire Department shall open or draw water from any CSA service, including fire hydrants, without prior written approval and payment of applicable charges. Use of water from fire hydrants for any use other than firefighting or for hydrant maintenance by CSA or fire department personnel is prohibited. The CSA shall not be responsible for any loss or damages directly or indirectly resulting from or caused by the proper, improper or negligent installation, operation, use, repair or maintenance of water facilities or equipment by the customer or any other person.

Whenever any construction or activity is being performed contrary to the provisions of this ordinance, the General Manager shall issue written notice to the responsible party to stop work immediately on that portion of the construction on which the violation has occurred. No work shall proceed on that portion until corrective measures have been taken and have been approved by the General Manager.

The CSA or its authorized agents or employees shall have access at all reasonable times to enter the customer’s property for any purpose associated with the provision of water service, including inspection of the same to observe and determine that the CSA water ordinances and regulations are being observed and implemented.

No person shall place on any water pipeline, or pipeline easement, any obstruction, such as wires, fences, trees, or buildings or improvements, which may impede or otherwise interfere with the CSA’s ready access to any portion of its water system. Upon CSA’s written request, such obstruction shall be immediately removed by the property owner or their agent at no cost to the CSA or, at the CSA’s option, shall be removed by the CSA at the owner’s expense.

8.90. ___ . Water System Service Application and Fees

- (a) Application for water service shall be made in writing and shall include a completed application form as provided by the General Manager. Upon payment of any required fees, the water service connection shall be installed by CSA employees. The initial schedule of fees, as contained herein shall be instituted as of the effective date of this ordinance. Said fees shall remain in effect unless otherwise amended or repealed, by the adoption of a resolution of the Board of Directors.
- (b) Fees are hereby established and shall be imposed for the following activities and/or service provided by the CSA to real property or the owners of real property, as follows:

<u>New Water Service</u>	
Will Serve Letter	\$50
Water Meter (3/4 inch)	\$575
Shut Off Valve at Box	\$100
Fire Sprinkler “T” at Box	\$100
Connection Fee	\$150

Capacity Building Fee	\$0
Service Call (Minimum of 2 Hours)	\$100
 <u>Miscellaneous Costs Related to Services*</u>	
Will Serve Letter	\$50
Annual Backflow Certification Inspection/Certification	\$50
Single Service Meter Box	\$2500
Double Service Meter Box	\$3200
Lateral Installation	\$ CSA Cost

*These costs may not be necessary as determined by General Manager

- * Offsite water use is prohibited unless pre-approved in writing by the General Manager. Any such use shall require a deposit in an amount of not less than \$500.

Miscellaneous Water Services

Will Serve Letter	\$ 50
Annual Back Flow Device Certification	\$50
Service Call-Regular Hours	\$50 per hour
Service Call-After Hours	\$75 per hour
Disconnect Fee	\$100
Reconnect Fee	\$50
Water Restrictor Installation	\$200
Bulk Water Sale	\$5.00 per 1000 gallons
Fire Sprinkler Inspection at Certificate of Occupancy	\$50

Unless otherwise expressly provided, fees shall be paid in advance of service. Where fees are not paid in advance of service they shall be promptly billed by the General Manager and shall be due and payable within thirty (30) days of the date of the bill to the affected property owner or person. Bills unpaid after thirty (30) days shall have a ten percent (10%) one time late fee added to the bill and the adjusted amount (bill and late fee and any interest) shall thereafter earn interest at the rate of one percent (1%) per month, which shall be added at the end of each month.

A connection fee will be paid at the time that the service connection is made to the real property. No connection will be made and no building permit shall be issued until this connection fee is paid in full.

Water meters shall be required to be installed on all new service connections. The cost for water meter installation shall be charged at the time of application for a new water service to serve the building permit application for the primary residence on the property.

A water shut-off valve shall be installed outside of meter boxes by the CSA for any new water service. A second water shut-off valve shall be installed at a location close to the residence so as to allow convenient access to the shut off valve by the owner. The cost and installation of the shut-off valve at the residence shall be a responsibility of the property owner. Proper operation of the water valve shall be inspected by the CSA or the County. A properly installed and functioning shut-off valve shall be a condition of continued water service and failure to install such an improvement may be a basis for terminating water service to the property until such time as the water shut-off valve has been installed.

All water service connections shall be required to accept conditions of pressure and service as is provided by the CSA water system at the point of connection. The CSA shall not be liable for any damages arising from high or low pressures and the property owner may install pressure increaser or pressure reducer improvements at the residence.

Section 8.90. _____ Water Service Connections, Improvements, Fire Sprinkler Systems

Water service shall be issued to any parcel containing a residence (EDU) or where the customer is proposing to build a residence (EDU). The CSA shall, at the cost to the property owner requesting water service to the property and collected in advance as a fee, install the lateral (if required) and shall install a water meter, water shut off valve at the water box, fire sprinkler “T” at the water box, and any required water meter box (single or double) at property corners or where property corners are infeasible, at property lines as designated by the General Manager. Only duly authorized employees or agents of the CSA are permitted to install service pipes from system mains, valves, meters, or install meter/valve boxes from the system mains to the designated valve box/meter box. Any work or connections made without approval of the CSA shall be considered as unauthorized and shall be immediately disconnected by the CSA. All equipment within the valve/meter box, including the valve/meter box, and any piping from the meter/valve box to the mains, shall be considered property of the CSA.

The property owner is solely responsible for all trenching, pipelines, shut-off valves, and any required backflow prevention devices and/or valves preventing cross connections. In the event that residential sprinkler systems are proposed on an existing or proposed residence, a minimum two (2) inch lateral is required to be installed to the meter. From the meter, a dedicated pipeline, independent from the residential service line to the residence, is required to serve any residential fire sprinkler system. When required, the CSA will install a “T” on the owner’s side of the meter for use by the owner in providing the required dual lines to the residence—one for residential water service and one for serving the residential fire sprinkler system. A backflow device shall be required for any installation of a residential fire sprinkler system, and this backflow prevention device shall follow the specifications outlined in this ordinance. The backflow device shall be inspected annually and certified as to its satisfactory operation. The General Manager may waive a backflow device in those instances where the residential sprinkler design is using residential service water without any oils, anti-freeze, or other additives and in such cases, the fire sprinkler system shall be located within a freeze-free location within the residence where ambient temperatures during winter are maintained above freezing.

Water service connections will not be allowed to be connected to garages, travel trailers, fifth wheels or like vehicles, tents, storage sheds, or other improvements on a parcel. Water service connections shall not be installed on parcels that will contain a proposed residence unless and until a County Building Permit has been duly issued; the Architectural Review Committee of the Sierra Brooks Property Owners Association has granted its approval of the development of the parcel; and, a water service application has been approved by the CSA.

Water service to second residential units, guest houses, and caretaker residences, if authorized by County zoning laws, shall be served by a separate service and meter. The base rate and fees for an individual water service established herein at \$19.58 per month (base rate) shall be required to be paid by the owner for the water service to serve these uses, or as amended by the Board.

All work from the point of ownership (meter box) of the customer to the outside of the foundation of the customer's residence shall be inspected by the CSA and/or the County Building Department. This customer service line or in the case of a fire sprinkler system, the customer service lines, shall not be covered at any point without inspection and approval by the CSA. The installation must be tested for leakage.

Section 8.90. _____ Water Service to Multiple Parcels or Merged Parcels

If any owner owns multiple properties that are contiguous to each other and are vacant, the base water monthly service charges of \$19.58 per month as set forth in this ordinance shall not be charged for any parcel unless and until there is a new water service application request from the owner for water service to any one or all of the vacant parcels. The owner of any vacant parcel shall only receive a water service to one or all of the vacant parcels when the owner has submitted a water service application for each of the parcels that the owner desires to connect to the water system and shall pay any fees or charges, including the costs of installation of the water service and meter. The owner of each parcel for which a service connection is installed by the CSA shall be required to pay the monthly service charge as set forth in this ordinance for each parcel receiving a water service.

Any vacant multiple parcels under the same ownership or any vacant merged parcels containing a water service to one or all vacant lots and where no water meter or approved meter assembly exists, shall be provided an approved water service only when a water service application is made to the CSA and paying all fees or charges required by this ordinance, including the costs of installation of the water meter assembly. The General Manager shall be empowered to cause the disconnection of any such water service connections to vacant parcels for which a meter and meter assembly is not in place within the meter/valve box. This does not apply to a parcel which is part of multiple parcels under one ownership or merged parcels under one ownership, which contains a primary residence (EDU).

Multiple parcels which are merged, resulting in one parcel, shall not be entitled to maintain more than one water service connection. In the case of a developed parcel that is merged

with adjacent and undeveloped parcels, any water service connection that may have been in existence prior to the effective date of the merger shall be discontinued and the General Manager shall cause its discontinued use and removal upon merger of the parcels.

Section 8.90. _____ Water Service to Vacant Parcels

(a)

Water service may be provided to vacant parcels only upon request of the owner. Any existing water service to a vacant parcel that does not have an approved water service permit; that does not contain a meter; and, does not have an approved water meter assembly that meets minimum water service requirements of this ordinance shall not be considered an approved installation. A water service application and payment of all fees shall accompany any request for water service made to the CSA for a vacant parcel. The owner shall pay for the installation of the water service and meter, and shall pay the monthly water service charge. The existence of a water valve and/or water box upon a vacant parcel does not constitute implementation nor approval of service of water delivery to the vacant parcel and shall be disconnected until such time that a water service application is filed with the CSA and a meter installed at the service box. A water service application is required to authorize serving a vacant parcel with water and once a water meter is installed, the service of water to the parcel shall be authorized. Once the meter is installed by the CSA and the service is authorized and charged, the owner shall be required to pay the monthly water service fees and shall be charged the base rates established in this ordinance.

If an owner owns a single vacant parcel, the base water rate as set forth in this ordinance of \$19.58, shall not be charged unless and until there is a water service application made to the CSA with payment of all fees and charges, including the cost of the installation of the meter and meter assembly for water service.

If an owner has an approved water service to a vacant parcel and subsequently decides to merge the vacant parcel with a contiguous parcel(s) that contains an approved water service to a residence, the service to the vacant parcel shall be terminated and removed. If the merger involves two or more vacant parcels, only one service shall be permitted to the merged parcel that formerly contained two or more parcels. In such a case, any services that previously existed shall be terminated, except one water service which may remain to serve the new parcel configuration representing the merger.

Water service and use of water on a vacant parcel for dust control shall be prohibited unless the dust control is required as part of any approved grading activity on the parcel or to temporarily contain dust while an improvement (road, storage building, etc) is being developed on the property..

Section 8.90. _____ Cross Connection and Backflow Prevention

The CSA shall have the regulatory responsibility for the protection of the public potable water distribution system from contamination or pollution due to the backflow of contaminants or

pollutants through the water service connection. If in the judgment of the General Manager an approved backflow prevention assembly is required at the customer's water service connection for the safety of the water system, the General Manager shall give the customer notice in writing to install an approved backflow prevention assembly at the customer's property and at the expense of the customer/owner of the parcel.

It is unlawful for any person, firm, or corporation at any time to make or maintain or cause to be made or maintained, temporarily or permanently, for any period of time whatsoever, any cross connection between plumbing pipes and/or water fixtures being served with water by the CSA and any other source of water supply or to maintain any sanitary fixture or other appurtenances of fixtures which, by reason of their construction, may cause or allow backflow of water or other substances into the water supply and/or distribution system of the CSA and/or the service of water pipes or fixtures of any customer of the CSA.

Section 8.90. ____ Water Use, Base Rate Established, Meter Reading, Payments, Disconnection of Service

Property owners and/or residents shall not re-sell or enter into any contract to resell, any water originating from the CSA. Water use shall not be transferred to any property other than the property for which the original water service to the property is/was specified.

Water lines not owned and maintained by the CSA shall be kept in good order and repair by the owner. Persons wasting water due to defective pipes or valves or leaks in pipes may be refused delivery of further water until such conditions are corrected.

Fees, rates, and charges for base charges, water consumption charges, and fees, rates, and charges imposed by the CSA as part of its routine billing shall be based on a schedule of fees (late fees, non-payment, water turn-off, water re-start, delinquency charges, liens, etc) adopted by resolution of the Board of Directors of the CSA. User fees and charges shall be billed to the owner of the property served regardless of who is deriving the benefits from, submitting payment for, or receiving the water service as a result of the water connection. The base monthly rate for water service connections shall commence on the first day of each month and shall be \$19.58 per month which allows consumption up to 50,288 gallons of water per month. Water consumption in excess of this base rate shall be charged to the owner at a rate of \$2.27 per 1000 gallons above the base rate of 50,288 gallons of water. Water consumption in an amount less than the base rate of 50,288 gallons cannot be credited nor carried over to another month.

Water service charges billed monthly for water service cannot be paid in one lump sum annually nor can these fees be carried on the annual County tax bill for payment. Water meters will be read monthly by the CSA and monthly billings will be distributed on the 15th day of each month, containing charges for the prior month consumption of water from the CSA and any other charges (late fees, delinquent charges, etc) determined to be appropriate by the CSA. There is no option for any "seasonal disconnections" nor any other form of "discount" in water service charges and all service connections shall be required to pay the base rate of \$19.58 per month whether or not

water was consumed. Customers shall be billed for water service on a monthly or on a quarterly basis, as determined by the CSA. Bills from the CSA will be rendered monthly based on consumption to the nearest 100 gallons. The CSA may choose to implement meter reading and billing based on a quarterly cycle if the CSA finds that such would be in the best interest of the CSA and if approved by the Board of Directors. If for any reason, a meter cannot be read on the regular reading date, the customer will be billed at the minimum rate of \$19.58 per month, and at such time as the meter is again accessible on the correct reading date, the meter shall be read and billing adjusted accordingly. The CSA shall be responsible for meter reading and meter maintenance while all billing and collections shall be provided to the CSA by the County Treasurer-Tax Collector. The specific process for meter reading, transfer of information on water consumption, software interaction with the billing and collection process, rates, fees, and charges, time limits, disconnections and reconnections, and other polices governing the billing and collection process shall be set forth by Resolution of the Board of Directors.

Disputes over water consumption fees paid and/or over any assessed charges paid to the CSA may be appealed in writing to the County Treasurer-Tax Collector and any written appeal must be received by the County Treasurer Tax Collector within ten (10) days of the date of billing being contested. The decision of the County Treasurer-Tax Collector shall be rendered in writing within ten (10) days of the decision on the appeal but no longer than twenty (20) days after receipt of the written appeal. Any decision of the County Treasurer-Tax Collector may be appealed to the Board of Directors of the CSA by providing written notice to the Board of Directors within ten (10) days of receipt of the decision of the County Treasurer Tax Collector on the appeal. The Board of Directors at its next public meeting shall hear the appeal and render a decision within thirty (30) days of the hearing. No publication nor formal mailed notice of the date which the CSA Board of Directors will undertake consideration of the appeal is required for the hearing, other than to the party filing the appeal. Such notice to the appellant shall be no less than ten (10) days prior to the scheduled hearing on the appeal. The fees being contested must have been paid and any appeal for any fee not paid shall be grounds for dismissal of the appeal.

Water service may be disconnected and shut off if fees and charges are not paid in full by the 20th day of the month following the month in which the billing has not been paid. A disconnect fee and a re-connection fee shall be charged to the owner for any water service required to be disconnected as a result of non-payment of fees. Without prejudice to any other right, remedies, or relief given or granted to the CSA, the CSA may terminate water service for non-payment of delinquent service charges, penalties, interest and finance charges provided the CSA gives notice of the delinquency and impending termination of water service , at least ten (10) days prior to the proposed termination by mans of personal service or notice mailed postage prepaid to the customer to whom the service is billed, not earlier than nineteen (19) days from the date of mailing the CSA's bill for services, and the ten-day period shall not commence until five (5) days after the mailing of the notice. Every notice of termination of water service pursuant to this ordinance shall include the following information:

1. Name and address of customer whose account is delinquent
2. Amount of the delinquency
3. Date by which payment or arrangements for payment is required in order to avoid

termination of water service

4. Procedure by which the customer may initiate a complaint or request an investigation concerning service or charges and the procedure by which the customer or owner may request amortization of the unpaid charges
5. Procedure by which the customer may request amortization of the unpaid charges
6. Procedure for the customer to obtain the information on availability of financial assistance, including private, local, State, or Federal sources, if applicable
7. Telephone number and email address of a representative of the CSA who can provide additional information arrangements for payment

The CSA shall make a reasonable and good faith effort to contact an adult person residing at the premises of the customer by telephone or personal contact, at least 48 hours prior to any planned termination of water service, except that, whenever telephone or personal contact cannot be accomplished, the CSA shall give, by mail, in person, or by posting in a conspicuous location at the premises, a notice of termination of water service, at least 48 hours prior to termination.

If a leak or other condition caused a significant over-run of water consumption in a given month, a one-time leak adjustment may be issued by the General Manager upon receipt of a written explanation from the owner describing the cause and the corrective action taken to prevent further water loss. The General Manager may or may not approve the one time leak adjustment and the summary of findings and decision of the General Manager shall be conveyed in writing to the owner of property who requested the one-time leak adjustment.

Water service may be discontinued by the CSA for any of the following reasons:

- 1) Where apparatus, appliances, or equipment using water is dangerous, unsafe, or not in conformity with laws or regulations governing public water systems or the customer fails to maintain the customer's facilities in a suitable condition to prevent the waste of water;
- 2) Where water consumption is greatly in excess of past averages or seasonal use and where such excessive demands by one customer is or may be detrimental or injurious to the water service furnished to other customers;
- 3) If there is a fraud in securing a water service or a serious abuse of water use that is not corrected after written notice from the General Manager;
- 4) If such discontinuance directly affects health and safety and conditions warrant such action;
- 5) Delinquency in the payment of any bill and/or failure to make payment of required charges, fees, and assessments requiring the County Treasurer-Tax Collector to recommend immediate discontinuance of water service;
- 6) Any unprotected, actual, or potential cross connection or lack of adequate backflow protection or maintenance of backflow prevention devices
- 7) Upon request of the owner to have water shut off, and in such cases, the CSA shall shut off the water and read the meter within 72 hours of the request and a closing bill will be prepared and transmitted to the owner however, the monthly bases rate will continue to be billed to the property owner whether or not water is used;
- 8) A parcel is vacant and contains an old or non-compliant water service that does not have an approved water service permit, a water meter installed, and the installation does not comply with the installation specifications herein.

When water service is disconnected for any reason, a reconnection fee shall be paid prior to restoration of water service.

When an abnormally large quantity of water is desired for filling a swimming pool, pond, or for other purposes, arrangements must be made with the CSA prior to taking such water. Permission by the General Manager to allow a customer to take water in large quantities shall be granted only if it can be safely delivered through the CSA's facilities; only if the water system is not in an emergency or otherwise critical water rationing or conservation phase; or, if other customers are not inconvenienced.

Section 8.90. _____ Wells within the CSA

There exists thirty eight (38) parcels that exceed one (1) acre in size and which formerly qualified for the ability to serve the parcel by an individual water well. Wells for those parcels as of the effective date of this ordinance, that have an existing domestic water well serving water to an authorized residence on the parcel (EDU) shall be contacted in writing by the General Manager requesting that the owner make a determination if the parcel and residence are to receive a water service from the CSA or if the parcel will only be served by the existing domestic water well. Those parcels that are vacant and do not have a domestic water well in existence on the parcel and serving water to an existing residence as of the effective date of this ordinance shall be prohibited from drilling a domestic water well and shall be required to be served water by the CSA.

Property owners who have an existing domestic water well that is connected to a residence and who opt to not connect to the CSA water system, may at any time in the future, request a new water service permit to connect the parcel to the CSA water system. Water from the CSA water system will only be connected by the CSA to the parcel upon submittal of a water service application and payment of all required fees for a new water system connection. The existing well on the property shall either be formally abandoned or be allowed to co-exist with a new water service connection by installation of a backflow prevention device in accordance with this ordinance. The CSA shall confirm separation of the well from any potential cross connection to the CSA water system; shall confirm that the backflow prevention device is operational; shall confirm that only the CSA water system is connected to the residence; and, shall routinely inspect the property to assure compliance with this ordinance. At no time may any connection between the well and any pipelines or fixtures associated with the well be connected to the service line from the meter to the residence. The backflow prevention device shall be certified annually and the certification shall be provided annually by the owner to the CSA. The cost for certification of the backflow prevention device shall be a responsibility of the owner.

Owners who are served by individual water wells shall be exempt from the payment of monthly water base rate charges. If the owner determines that CSA water service is desired in the future and submits a water service application to connect to the CSA water system, the owner shall then be required to begin paying the monthly base rate service charges once the connection is installed by the CSA.

Wells within the boundaries of the CSA are prohibited as of the effective date of this ordinance. Exceptions to this prohibition include any well developed by the CSA for water to serve the CSA or any well proposed for development by the State of California, Department of Fish and Wildlife to serve management needs for the Smithneck Creek Wildlife Management Area that is located within the boundaries of the CSA.

Section 8.90. _____ Water Conservation Policy

A water conservation policy and regulations are hereby established and shall apply to all real property receiving water from the CSA water system. The water conservation policy shall be administered and enforced by the General Manager or designee so designated by the General Manager.

Section 8.90. _____ Water Conservation Phases

The water conservation policy shall consist of four (4) phases regulating the outside use of water which is defined as any use other than the use of water inside of a residence, including but not limited to irrigation of lawns and landscaping (irrigation sprinkler systems, sprinklers attached to a garden hose, flood irrigation by garden hose); sports fields; gardens; washing vehicles, decks, driveways, sidewalks, buildings, or other like surfaces; filling of pools or ponds; and similar water use. The four (4) phases of water conservation are defined as follows:

- 1) **Phase One-Voluntary:** This is a voluntary water conservation program where property owners and residents served by the CSA, during all months of the year, are requested to practice and conduct outside irrigation/watering conservation. Irrigation of lawns and landscaping would be authorized on Tuesdays, Thursdays, and Saturdays of each week for odd numbered addresses and on Wednesdays, Fridays, and Sundays of each week for even numbered addresses. No outside watering would occur at any time on Mondays of any week during summer months defined as May through October of each year. There would be no watering for any dust control purposes and no irrigation of native landscaping. Outside irrigation during the authorized and stated days (odd or even numbered addresses) would be limited to the time periods between 5:00 am through 10:00 am and 5:00 pm through 10:00 pm. No outside irrigation would be authorized during the hours before or after these stated hours of each day.
- 2) **Phase Two-Mandatory:** This is a mandatory water conservation program where property owners and residents served by the CSA would be required to follow specific outside water use regulations. During this phase, all requirements outlined in “Phase One-Voluntary” section shall be mandatory and there shall be no washing of decks, driveways, sidewalks, buildings, or other like surfaces unless accomplished by use of a pressure washer that has a functioning shut-off nozzle that is automatic and water is not running on the surface of the ground. Washing of boats, vehicles, trailers, or other like equipment is permissible only when washing is accomplished through use of hoses with nozzles providing automatic or manual shut off and water is not running on the surface of the ground. No ponds or swimming pools may be filled during this phase. This phase is not intended to prevent property owners or residents from hand-watering (not through use of any sprinklers)

landscape plants, plants in containers, pots, or planters. Hand watering is permissible so long as the hose being used contains a nozzle providing automatic or manual shut off and watering is not being conducted by flood irrigation, sprinkler systems, or by sprinklers being left in operation. This phase is not intended to restrict watering of vegetable gardens so long as such watering is not accomplished by use of sprinklers or flood irrigation and there is no waste of water occurring.

- 3) **Phase Three-Declaration of Drought:** If conditions of drought are identified by official order or proclamation by the Governor or State Water Resources Control Board, the General Manager is authorized to issue notification to property owners and residents of the CSA that additional watering restrictions will be implemented and enforced; phase two restrictions will be enforced and additional restrictions may be imposed that implement further prohibitions for outside use of water, including days and times of day. The General Manager will request ratification of the additional regulations at the next regular meeting following receipt of any official order, drought declaration, or proclamation from the Governor.
- 4) **Phase Four-Emergency:** This is water conservation where it is determined by the General Manager that a critical water shortage exists or some other bona fide emergency condition exists that requires immediate and effective water conservation to maintain the maximum water levels necessary for public health and safety. During this phase, all phase one and phase two regulations will be in effect and the General Manager is authorized to post notices and implement and enforce additional outside water use restrictions, including prohibition on any outside water use during the term of the emergency condition. The General Manager will request ratification of any imposed additional regulations as well as ratification of continuing this phase of water conservation at the next regular meeting, or any special meeting, called by the Board of Directors.

Section 8.90. _____ **Manager's Authority to Implement Phases**

The General Manager may unilaterally impose phase two restrictions for a period not exceeding thirty (30) days and phase three restrictions for a period not exceeding fourteen (14) days and should the General Manager determine that a period in excess of the time frames specified may be required, a special meeting of the Board of Directors shall be conducted to determine the need for additional restricted periods. Periods in excess of those authorized to be imposed by the General Manager must be approved by the Board of Directors. This does not have any effect upon a compliance order or emergency order issued by the State of California.

The General Manager shall have the Authority to impose phase three restrictions for a period not exceed 14 days, during which time a special or regular meeting of the Board of Directors shall be convened, at which time the Board may determine that it is necessary to continue the phase three restrictions.

Section 8.90. _____ **Notification**

Notification of any phase one or two requirements may be provided by a sign located at the entrance to the Sierra Brooks Subdivision, by mailers or by a newsletter, or by other such means

as the General Manager deems appropriate. Phase three requirements shall include all notification provided for phase one or two requirements and shall also include posting of notices on each property containing a valid service connection and/or the use of posters or pamphlets or street signs.

Section 8.90. _____ Violations of Water Conservation Policies and Remedy

- (a) Phase one restrictions are voluntary and there shall be no action taken for violation of its provisions.
- (b) Phase two restrictions, when imposed, shall be enforced by the General Manager, and as determined necessary, when a violation has occurred or is in the process of occurring, a notice of violation shall be served in writing to the owner of property causing the violation. If any violation continues after the issuance of a notice of violation, the General Manager shall impose any or all of the following:
 - 1. An administrative penalty shall be assessed in the amount of \$250 for each day that the violation is occurring.
 - 2. Installation of a flow restriction device on the service line to the property that is subject of the violation and located within the meter box maintained by the County Service Area.
 - 3. Termination of service and disconnection of the water service to the property

Violation of any phase three restrictions are hereby declared to be a hazard to public health and safety and shall result in the General Manager issuing a written notice of violation to the property owner causing the violation. In the event that a property owner fails to immediately correct the violation as directed in the notice of violation, the general manager shall impose the remedies and/or administrative penalties for phase two violations. In addition the General Manager shall have the authority to disconnect the water service which shall be preceded by a written notice of intent to disconnect issued to the property owner prior to the actual disconnection of the service; provided however, in the case of the imminent failure of the water system due to lack of water, the General Manager shall have authority to immediately disconnect service for a property in violation of the water restrictions. If the water service is disconnected, a notice of disconnection shall be posted on the property and no re-connection shall occur until the fees as required by resolution of the Board of Directors have been fully paid.

Section 8.90. _____ Appeals

Any property owner who is subject to a notice of violation may appeal the determination of the General Manager to the Board of Directors. The appeal shall be in writing and shall be filed with the Sierra County Clerk-Recorder, with a copy to the General Manager, no later than ten (10) days

after the date of the notice of violation has been served (by personal service or by mail) on a property owner. During the processing on any appeal, the decision of the General Manager shall remain in full force and effect.

Any appeal filed shall be processed in accordance with the County’s Appeal Procedures outlined in the County Code and any fees imposed to cover the cost of the appeal shall be provided by the party filing the appeal at the time of filing of the appeal.

Section 8.90._____ Enforcement

(This section reserved)

Ordinance Section Seven: This ordinance shall take effect thirty (30) days after its passage. Before the expiration of fifteen (15) days after passage of this ordinance it shall be published once with the names of the members of the Board of Directors voting for and against the ordinance in the Mountain Messenger, a newspaper of general circulation published in the County of Sierra, State of California.

Introduced at a regular meeting of the Board of Directors held on the _____day of _____, 2020 and passed and adopted by the Board of Supervisors of the County of Sierra, State of California, on the ____ day of _____2020 by the following roll call vote:

- AYES: Supervisors
- NOES:
- ABSTAIN:
- ABSENT:

COUNTY OF SIERRA

 JAMES BEARD
 CHAIRMAN, BOARD OF SUPERVISORS

ATTEST:

APPROVED AS TO FORM:

 HEATHER FOSTER
 CLERK OF THE BOARD

 DAVID A. PRENTICE
 COUNTY COUNSEL

**Sierra County
Board of Supervisors'
Agenda Transmittal &
Record of Proceedings**

MEETING DATE: February 4, 2020	TYPE OF AGENDA ITEM: <input checked="" type="checkbox"/> Regular <input type="checkbox"/> Timed <input type="checkbox"/> Consent
--	---

DEPARTMENT: Public Works and Transportation
APPROVING PARTY: Tim H. Beals, Director
PHONE NUMBER: 530-289-3201

AGENDA ITEM: Resolution of Appreciation honoring Mr. Dennis Marsh, County Road Superintendent, and recognizing his retirement from County Service effective December 5, 2019.

SUPPORTIVE DOCUMENTS ATTACHED: Memo Resolution Agreement Other

BACKGROUND INFORMATION: Resolution will be available at the meeting.

FUNDING SOURCE:
GENERAL FUND IMPACT: No General Fund Impact
OTHER FUND:
AMOUNT: \$ N/A

ARE ADDITIONAL PERSONNEL REQUIRED? <input type="checkbox"/> Yes, -- -- <input checked="" type="checkbox"/> No	IS THIS ITEM ALLOCATED IN THE BUDGET? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No IS A BUDGET TRANSFER REQUIRED? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
--	---

SPACE BELOW FOR CLERK'S USE

BOARD ACTION: <input type="checkbox"/> Approved <input type="checkbox"/> Approved as amended <input type="checkbox"/> Adopted <input type="checkbox"/> Adopted as amended <input type="checkbox"/> Denied <input type="checkbox"/> Other <input type="checkbox"/> No Action Taken	<input type="checkbox"/> Set public hearing For: _____ <input type="checkbox"/> Direction to: _____ <input type="checkbox"/> Referred to: _____ <input type="checkbox"/> Continued to: _____ <input type="checkbox"/> Authorization given to: _____	Resolution 2020- _____ Agreement 2020- _____ Ordinance _____ Vote: Ayes: Noes: Abstain: Absent: <input type="checkbox"/> By Consensus
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COMMENTS:

_____ CLERK TO THE BOARD	_____ DATE
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**Sierra County
Board of Supervisors'
Agenda Transmittal &
Record of Proceedings**

MEETING DATE: February 4, 2020	TYPE OF AGENDA ITEM: <input type="checkbox"/> Regular <input type="checkbox"/> Timed <input checked="" type="checkbox"/> Consent
--	---

DEPARTMENT: Board of Supervisors
APPROVING PARTY: Paul Roen, Supervisor, District No. 3
PHONE NUMBER: 530-289-3295

AGENDA ITEM: Update by the Sierra County Fire Safe and Watershed Council and approval of addendum to Master Agreement for Funding Firewise Community Projects to be undertaken by the Sierra County Firesafe and Watershed Council, Agreement No. 2012-111, for a pilot project to provide a bin at the Sierra City Transfer Station for green waste.

SUPPORTIVE DOCUMENTS ATTACHED: Memo Resolution Agreement Other
See attached proposed addendum

BACKGROUND INFORMATION:

FUNDING SOURCE: Title III funding
GENERAL FUND IMPACT: No General Fund Impact
OTHER FUND:
AMOUNT: \$150.00 per month N/A

ARE ADDITIONAL PERSONNEL REQUIRED?

Yes, -- --
 No

IS THIS ITEM ALLOCATED IN THE BUDGET? Yes No

IS A BUDGET TRANSFER REQUIRED? Yes No

SPACE BELOW FOR CLERK'S USE

BOARD ACTION:

- Approved
- Approved as amended
- Adopted
- Adopted as amended
- Denied
- Other
- No Action Taken

- Set public hearing
For: _____
- Direction to: _____
- Referred to: _____
- Continued to: _____
- Authorization given to:

Resolution 2020- _____
Agreement 2020- _____
Ordinance _____
Vote:
Ayes:
Noes:
Abstain:
Absent:
 By Consensus

COMMENTS:

CLERK TO THE BOARD

DATE

Agreement to be distributed
under separate cover
and/or at meeting.

**Sierra County
Board of Supervisors'
Agenda Transmittal &
Record of Proceedings**

MEETING DATE: 4 February 2020	TYPE OF AGENDA ITEM: X Regular X Timed <input type="checkbox"/> Consent
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DEPARTMENT: Board of Supervisors
APPROVING PARTY: Lee Adams, District One
PHONE NUMBER: 530-289-3506; hangman@sierracounty.ca.gov

AGENDA ITEM: Continued discussion/direction to staff regarding special election for EMS fee/tax for the Downieville Fire Protection District EMS service.

SUPPORTIVE DOCUMENTS ATTACHED: Memo Resolution Agreement Other

BACKGROUND INFORMATION:

FUNDING SOURCE:
GENERAL FUND IMPACT: No General Fund Impact
OTHER FUND:
AMOUNT: \$ N/A

ARE ADDITIONAL PERSONNEL REQUIRED? <input type="checkbox"/> Yes, -- -- <input type="checkbox"/> No	IS THIS ITEM ALLOCATED IN THE BUDGET? <input type="checkbox"/> Yes xNo IS A BUDGET TRANSFER REQUIRED? <input type="checkbox"/> Yes xNo
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SPACE BELOW FOR CLERK'S USE

BOARD ACTION: <input type="checkbox"/> Approved <input type="checkbox"/> Approved as amended <input type="checkbox"/> Adopted <input type="checkbox"/> Adopted as amended <input type="checkbox"/> Denied <input type="checkbox"/> Other <input type="checkbox"/> No Action Taken	<input type="checkbox"/> Set public hearing For: _____ <input type="checkbox"/> Direction to: _____ <input type="checkbox"/> Referred to: _____ <input type="checkbox"/> Continued to: _____ <input type="checkbox"/> Authorization given to: _____	Resolution 2020- _____ Agreement 2020- _____ Ordinance _____ Vote: Ayes: Noes: Abstain: Absent: <input type="checkbox"/> By Consensus
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COMMENTS:

CLERK TO THE BOARD

DATE

**Sierra County
Board of Supervisors'
Agenda Transmittal &
Record of Proceedings**

MEETING DATE: February 4, 2020	TYPE OF AGENDA ITEM: <input type="checkbox"/> Regular <input type="checkbox"/> Timed <input checked="" type="checkbox"/> Consent
--	---

DEPARTMENT: Public Works and Transportation
APPROVING PARTY: Tim H. Beals, Director
PHONE NUMBER: 530-289-3201

AGENDA ITEM: Resolution affirming surplus status of 2 vehicles and authorizing Downieville Fire Department to conduct an extrication training with them prior to recycling.

SUPPORTIVE DOCUMENTS ATTACHED: Memo Resolution Agreement Other

BACKGROUND INFORMATION: The vehicles, a Ford Taurus (License 3E433312) and a ; a 2001 Dodge (License 1111517) have all been previously identified as surplus vehicles, irreparable with no value. DVFD has made a request for vehicles to utilize for training purposes. One the training has been done the vehicles will be recycled. Recommendation is to adopt resolution as presented.

FUNDING SOURCE:
GENERAL FUND IMPACT: No General Fund Impact
OTHER FUND:
AMOUNT: \$ N/A

ARE ADDITIONAL PERSONNEL REQUIRED?

 Yes, -- --
 No

IS THIS ITEM ALLOCATED IN THE BUDGET? Yes No

IS A BUDGET TRANSFER REQUIRED? Yes No

SPACE BELOW FOR CLERK'S USE

BOARD ACTION: <input type="checkbox"/> Approved <input type="checkbox"/> Approved as amended <input type="checkbox"/> Adopted <input type="checkbox"/> Adopted as amended <input type="checkbox"/> Denied <input type="checkbox"/> Other <input type="checkbox"/> No Action Taken	<input type="checkbox"/> Set public hearing For: _____ <input type="checkbox"/> Direction to: _____ <input type="checkbox"/> Referred to: _____ <input type="checkbox"/> Continued to: _____ <input type="checkbox"/> Authorization given to: _____	Resolution 2020- _____ Agreement 2020- _____ Ordinance _____ Vote: Ayes: Noes: Abstain: Absent: <input type="checkbox"/> By Consensus
	COMMENTS: <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>	

_____ CLERK TO THE BOARD	_____ DATE
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BOARD OF SUPERVISORS, COUNTY OF SIERRA, STATE OF CALIFORNIA

**IN THE MATTER OF DECLARATION OF SURPLUS VEHICLES
AND APPROVAL OF DISPOSAL OF TWO VEHICLES**

RESOLUTION 2020-_____

WHEREAS, the County owned vehicles identified as a 1993 Ford Taurus, VIN 1FALP5247PG184463, License 433312; and a 2001 Dodge Durango, VIN 1B4HS28NX1F624151, License 1111517 are confirmed to be surplus and have no value; and,

WHEREAS, utilization of these vehicles by Downieville Volunteer Fire Department will enhance efforts at the County Yard to move inoperable equipment out of the inventory as well as enhance local public safety by providing important training opportunities to emergency responders.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The County owned vehicles identified as:

1993 Ford Taurus, VIN 1FALP5247PG184463, License 433312 and
2001 Dodge Durango, VIN 1B4HS28NX1F624151, License 1111517

are confirmed to be surplus and have no value and will be utilized by Downieville Volunteer Fire Department for training purposes, and then be recycled by the Downieville Volunteer Fire Department after utilization for training purposes.

ADOPTED by the Board of Supervisors of the County of Sierra on the 4th day of February, 2020, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

COUNTY OF SIERRA

JAMES BEARD
CHAIRMAN, BOARD OF SUPERVISORS

ATTEST:

APPROVED AS TO FORM:

HEATHER FOSTER
CLERK OF THE BOARD

DAVID PRENTICE
COUNTY COUNSEL

**Sierra County
Board of Supervisors'
Agenda Transmittal &
Record of Proceedings**

MEETING DATE: February 4, 2020	TYPE OF AGENDA ITEM: <input type="checkbox"/> Regular <input type="checkbox"/> Timed <input checked="" type="checkbox"/> Consent
--	---

DEPARTMENT: Public Works and Transportation
APPROVING PARTY: Tim H. Beals, Director
PHONE NUMBER: 530-289-3201

AGENDA ITEM: Resolution approving grant application and identifying the County as a cooperative partner and collaborator for a project and grant being pursued by the Sierra Business Council regarding biomass utilization and development in Sierra County.

SUPPORTIVE DOCUMENTS ATTACHED: Memo Resolution Agreement Other
Draft Project Description.

BACKGROUND INFORMATION: Steve Frisch of the Sierra Business Council presented to the Board at the meeting of January 21, 2020.

FUNDING SOURCE:
GENERAL FUND IMPACT: No General Fund Impact
OTHER FUND:
AMOUNT: \$ N/A

ARE ADDITIONAL PERSONNEL REQUIRED? <input type="checkbox"/> Yes, -- -- <input checked="" type="checkbox"/> No	IS THIS ITEM ALLOCATED IN THE BUDGET? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No IS A BUDGET TRANSFER REQUIRED? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
--	---

SPACE BELOW FOR CLERK'S USE

BOARD ACTION: <input type="checkbox"/> Approved <input type="checkbox"/> Approved as amended <input type="checkbox"/> Adopted <input type="checkbox"/> Adopted as amended <input type="checkbox"/> Denied <input type="checkbox"/> Other <input type="checkbox"/> No Action Taken	<input type="checkbox"/> Set public hearing For: _____ <input type="checkbox"/> Direction to: _____ <input type="checkbox"/> Referred to: _____ <input type="checkbox"/> Continued to: _____ <input type="checkbox"/> Authorization given to: _____	Resolution 2020- _____ Agreement 2020- _____ Ordinance _____ Vote: Ayes: Noes: Abstain: Absent: <input type="checkbox"/> By Consensus
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COMMENTS:

CLERK TO THE BOARD _____	DATE _____
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BOARD OF SUPERVISORS, COUNTY OF SIERRA, STATE OF CALIFORNIA

**APPROVAL OF APPROVAL FOR
GRANT FUNDING PURSUIT
BY SIERRA BUSINESS COUNCIL
FOR UTILIZATION OF BIOMASS**

RESOLUTION 2020-_____

BE IT RESOLVED THAT the Board of Supervisors of the County of Sierra hereby support and approve of the application for grant funding by the Sierra Business Council and hereby agree to be identified as cooperative partner and collaborator for a regarding biomass utilization and development in Sierra County.

ADOPTED by the Board of Supervisors of the County of Sierra on the 4th day of February, 2020 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

COUNTY OF SIERRA

JAMES BEARD
CHAIRMAN, BOARD OF SUPERVISORS

ATTEST:

APPROVED AS TO FORM:

HEATHER FOSTER
CLERK OF THE BOARD

DAVID PRENTICE
COUNTY COUNSEL

Increasing economic and fire resilience of forest communities through climate smart land management and biomass utilization

Draft Project Description

15 Jan. 2020

Objectives

The objectives of this project inherently facilitate a crosscutting approach that addresses all three research priority areas. We aim to support and protect vulnerable communities through development of a framework to evaluate land and resource management options that have climate mitigation and adaptation potential while providing wildfire, economic, and health benefits. The proposed evaluation framework will be vetted by stakeholders and presented as a template for other forest communities interested in making a similar transition toward climatic and economic resilience. Our guiding research question is: What are the co-benefits and tradeoffs of various forest and biomass management strategies in terms of landscape carbon, emissions, air quality, economic development, and wildfire protection? To address this question within the scope of the two-year project we will:

- Develop a framework for community-based forest resource planning
- Apply the framework to a Northern Sierra Nevada forest community to assess:
 - The landscape forest carbon budget, wildfire severity benefits, and potential biomass availability of desired management strategies
 - The carbon and emissions outcomes of harvested biomass under various forest management and biomass pathway scenarios ranging from limited harvest and utilization to different combinations of bioenergy and wood product production under extensive management
 - The air quality implications of each scenario
 - The infrastructure, transportation, and human resource needs of each scenario
 - The total cost per unit of product (e.g., bioenergy, pressboard, wood chips) for each scenario
 - The potential, overall economic benefit to the community of each scenario
- Facilitate community evaluation of the framework and its outcomes to inform a report on planning similar forest management transitions in other communities and at larger scales

We hypothesize that there are both environmental and community benefits of increased forest management, and that these benefits vary based on the level and type of biomass harvest and utilization. In particular, we expect wood product production to be less expensive than and generate fewer emissions than alternative biomass uses, bioenergy production to improve local air quality over in-forest burning if bioenergy plants are sited appropriately, and for increased forest management to create jobs and facilitate economic development.



GAVIN NEWSOM, Governor
NATURAL RESOURCES AGENCY
DEPARTMENT OF FISH AND WILDLIFE
WILDLIFE CONSERVATION BOARD
Mailing Address: P.O. Box 944209
Sacramento, California 94244-2090
www.wcb.ca.gov
(916) 445-8448
Fax (916) 323-0280

Sierra County Board of Supervisors
100 Courthouse Square, Room 11
P.O. Drawer D
Downieville, CA 95936

JAN 28 2020

SIERRA VALLEY CONSERVATION AREA, EXPANSION 5 (GENASCI)
SIERRA COUNTY
PROJECT ID: 2019164

Dear Board Members:

The California Department of Fish and Wildlife (CDFW), through the Wildlife Conservation Board (WCB), is involved in a land acquisition program focused on the long-range protection and enhancement of habitat for fish and wildlife. The CDFW identifies sites considered for acquisition in response to public interest, legislative mandate and departmental goals.

I am writing to advise you that WCB will consider the allocation of a grant to the Feather River Land Trust to assist in its acquisition of a conservation easement over 632± acres of land for the preservation and enhancement of wildlife habitat located in Sierra County and identified as Assessor's Parcel Nos. 016-010-017, 016-010-019, 016-010-22, and 016-030-003. The proposal is scheduled to be presented at the February 26, 2020, Board meeting. An electronic copy of the preliminary agenda is available for your review at www.wcb.ca.gov under News and Announcements. A more complete description of each proposal will be contained in the final meeting Agenda, which will be available at www.wcb.ca.gov ten days prior to the Board meeting.

We would also like to inform you that the property involved in this project is encumbered by a Land Conservation Contract under the Williamson Act. The WCB's proposed grant is to assist The Feather River Land Trust in the acquisition of a conservation easement for the purposes of providing habitat protection and to maintain historical agricultural practices. The property will remain in private ownership and continue as a working ranch; consequently, the agricultural intent of the Land Conservation Contract will still apply.

If you have any questions about this proposal or need additional information, please feel free to contact me at (916) 445-0137.

Sincerely,

A handwritten signature in blue ink that reads 'John P. Donnelly'. The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

John P. Donnelly
Executive Director

Enclosure(s)

cc: The Honorable Brian Dahle
The Honorable Megan Dahle
Shelton Douthit, Executive Director

ec: Kevin Thomas, Regional Manager
CDFW, North Central Region
kevin.thomas@wildlife.ca.gov



GAVIN NEWSOM, Governor
NATURAL RESOURCES AGENCY
DEPARTMENT OF FISH AND WILDLIFE
WILDLIFE CONSERVATION BOARD
Mailing Address: P.O. Box 944209
Sacramento, California 94244-2090
www.wcb.ca.gov
(916) 445-8448
Fax (916) 323-0280

Sierra County Board of Supervisors
100 Courthouse Square, Room 11
P.O. Drawer D
Downieville, CA 95936

JAN 28 2020

**SARDINE MEADOW RESTORATION
SIERRA COUNTY
PROJECT ID: 2018091**

Dear Board Members:

The Wildlife Conservation Board (WCB), in addition to other responsibilities, carries out a program that includes the enhancement or restoration of fish and wildlife habitat.

At this time, and in response to a request from the Truckee River Watershed Council, WCB proposes to consider the allocation of funds for a grant to restore montane meadow habitat totaling approximately 350 acres in the Davies Creek watershed on privately owned land in Sierra County. This proposal is presently scheduled for the February 26, 2020, Board meeting. An electronic copy of the preliminary agenda is available for your review at www.wcb.ca.gov under News and Announcements. A more complete description of each proposal will be contained in the final meeting Agenda, which will be available at www.wcb.ca.gov ten days prior to the Board meeting.

If you have any questions about this proposal or need additional information, please feel free to contact me at (916) 445-0137.

Sincerely,

A handwritten signature in blue ink, appearing to read 'John P. Donnelly'. The signature is fluid and cursive, written over a white background.

John P. Donnelly
Executive Director

Enclosure(s)

cc: The Honorable Brian Dahle

The Honorable Megan Dahle

ec: Kevin Thomas, Regional Manager
CDFW, North Central Region
kevin.thomas@wildlife.ca.gov



GAVIN NEWSOM, Governor
NATURAL RESOURCES AGENCY
DEPARTMENT OF FISH AND WILDLIFE
WILDLIFE CONSERVATION BOARD
Mailing Address: P.O. Box 944209
Sacramento, California 94244-2090
www.wcb.ca.gov
(916) 445-8448
Fax (916) 323-0280

Sierra County Board of Supervisors
100 Courthouse Square, Room 11
Downieville, CA 95936

JAN 28 2020

HASKELL PEAK MEADOWS RESTORATION
SIERRA COUNTY
PROJECT ID: 2019211

Dear Board Members:

The Wildlife Conservation Board (WCB), in addition to other responsibilities, carries out a program that includes the enhancement or restoration of fish and wildlife habitat.

At this time, and in response to a request from South Yuba River Citizens League, WCB proposes to consider the allocation of funds for a grant to complete restoration plans, complete NEPA and CEQA, conduct baseline monitoring, and complete permit applications to restore 131 acres of meadow habitat at Haskell Headwater Fen, Chapman Saddle and Freeman Meadow owned by the U.S. Forest Service in the Tahoe National Forest in Sierra County. This proposal is presently scheduled for the February 26, 2020, Board meeting. An electronic copy of the preliminary agenda is available for your review at www.wcb.ca.gov under News and Announcements. A more complete description of each proposal will be contained in the final meeting Agenda, which will be available at www.wcb.ca.gov ten days prior to the Board meeting.

If you have any questions about this proposal or need additional information, please feel free to contact me at (916) 445-0137.

Sincerely,

A handwritten signature in blue ink that reads 'John P. Donnelly'. The signature is stylized and cursive.

John P. Donnelly
Executive Director

Enclosure(s)

cc: The Honorable Brian Dahle

The Honorable Megan Dahle

ec: Kevin Thomas, Regional Manager
CDFW, North Central Region
kevin.thomas@wildlife.ca.gov

P.O. Box 277
Loyalton, CA 96118
January 20, 2020

Hon. Jim Beard, Chairman
Sierra County Board of Supervisors
P.O. Box D
Downieville, CA 95936



Dear Chairman Beard and Sierra County Board of Supervisors:

We are writing to ask for help with clarification of the current Sierra County General Plan as it relates to our ten-acre parcel of property located about $\frac{3}{4}$ mile east of Loyalton on Highway 49, AP # 016-090-042, and the two parcels bordering our property on each side to the east and west, since there appears to be a discrepancy between an older zoning designation and the newer land use designation adopted in 1996.

We have spoken several times to Tim Beals and Brandon Pangman in the Sierra County Planning and Building Department, who suggested we write to the Board of Supervisors for clarification. Mr. Pangman described the current discrepancy as follows:

“When the current Sierra County General Plan was last updated and adopted in 1996, it newly created a “community core” boundary for the larger community around Loyalton and extended this “core” boundary east along Hwy. 49 to include an island of three properties near the intersection of Smithneck Road and Hwy.49—Paul Graham’s 15.26 ac. parcel; the 10 ac. LDS Church parcel; and your 10 acres (see attached map). The land use designation for these three (3) “community core” parcels is “Rural 5-10” (meaning, ‘residential’ with an average density of 1 dwelling per 5 to 10 acres).

However, the zoning for these three (3) parcels, which had been in place for decades, was not changed at that time—and remains A1-Agricultural District today. This zoning designation is not consistent with the (newer) R 5-10 land use designation in the General Plan. Typically, zoning should be amended to be consistent with, and implement, the General Plan—which is the ‘top of the land use pyramid,’ if you will.

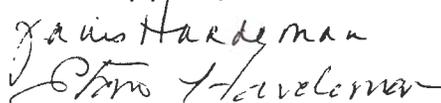
Some time ago, you approached us about the possibility of rezoning your property to accommodate a two-lot subdivision of your 10-acre parcel. We informed you that, while it ‘may’ be possible to rezone your property from Agricultural (A1) to Rural Residential (RR) District—consistent with the General Plan’s current R 5-10 designation—and do a corresponding subdivision....there was an issue of concern. Several years ago, in 2006, your next door neighbor, Paul Graham, applied for a rezone to do just that—but his project was denied. At the time, the Sierra County

Planning Commission approved the project using the 1996 General Plan but the Board of Supervisors declined approval and indicated that they felt the community core "flag lot" designation in that area (see map) was a mistake, and that larger parcel sizes and preservation of agricultural uses and open space in that region was preferable. In other words: no further lot splits in this area. Because of this, Planning Department staff cautioned you that a similar project right next door could face a similar fate....although we granted that some time had passed and the County had not yet amended the General Plan to remove these three "flag lots" from the Community Core designation. So it was unclear to staff whether the current Board would agree to keep this designation and consider a zone change to be consistent with the General Plan, or not. We recommended as one approach that you write a letter to the Board of Supervisors inviting discussion on this larger issue of whether they are supportive of the 1996 General Plan designation of your property, or not. If they are, then it might be a positive indicator for you that your proposed rezone and subdivision (consistent with the General Plan's R 5-10 density, or possibly even a higher density) might be better received at this time, than the Graham project was over 13 years ago."

Our question for discussion is whether the current Board of Supervisors are still supportive of the Community Core/R 5-10 land use designation applied to these three parcels or, as in the case with Mr. Graham's 2006 project denial, does the Board feel that the General Plan should be amended to return these parcels to an 'Agricultural' designation (or perhaps a low-density Rural designation that recognizes the existing 10 to 15 ac. parcel sizes), but does not allow for the creation of any new, and smaller, parcels?

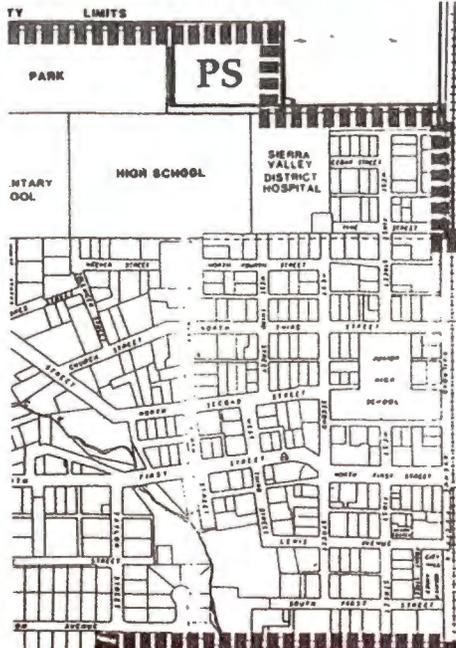
Thank you for your consideration and help to clarify this land-use issue.

Sincerely yours,

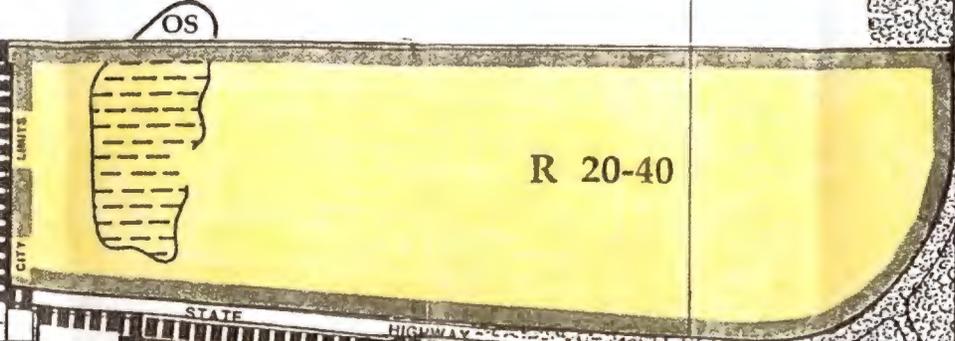
Handwritten signatures of Janis Hardeman and Stan Hardeman in cursive script.

Janis and Stan Hardeman

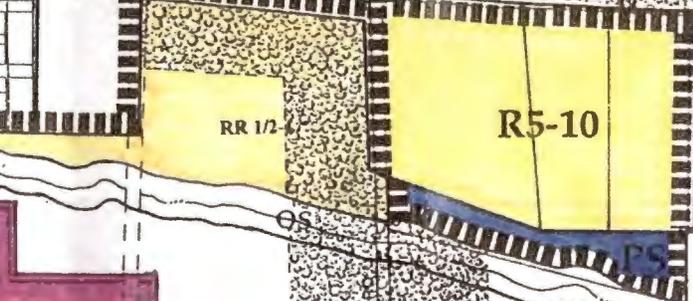
Enclosure: parcel map
Cc: Tim Beals
Brandon Pangman



AG

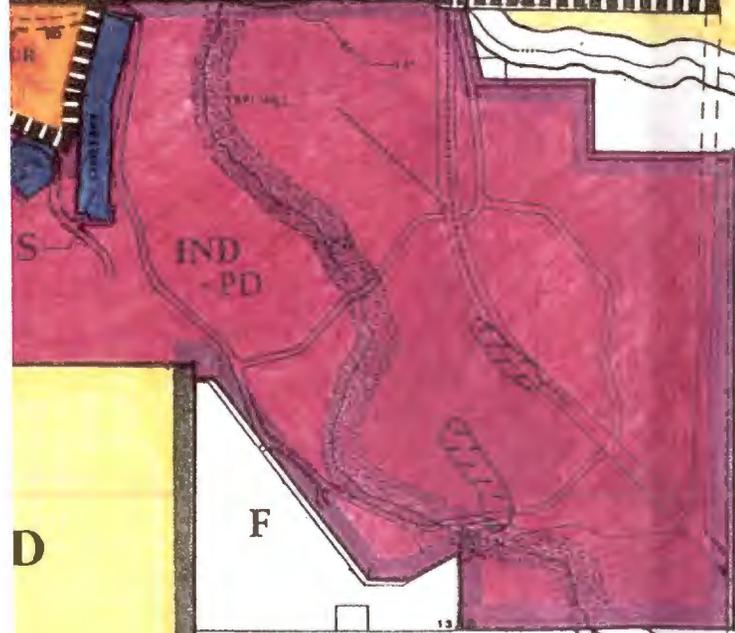


R 20-40



R5-10

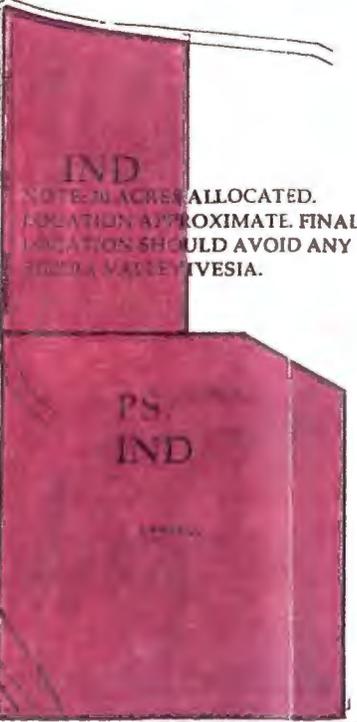
RR 1/2



IND - PD

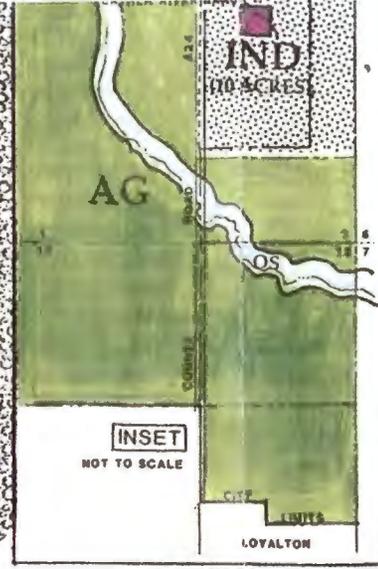
AG

AG



IND
NOTE: 30 ACRES ALLOCATED.
LOCATION APPROXIMATE. FINAL
LOCATION SHOULD AVOID ANY
SIERRA VALLEY DIVESIA.

PS
IND



INSET
NOT TO SCALE

LOYALTON

SPECIAL TREATMENT AREAS (STA)

-  STA-ST (STREAM ZONE)
-  STA-SC (SCENIC CORRIDOR)
-  STA-W (WETLANDS)
-  STA-ME (MINERAL EXTRACTION)

LAND USE DESIGNATIONS

-  MUR MULTIPLE UNIT RESIDENTIAL (8-12 DU/AC)
-  R RURAL Lot size noted
-  RR RURAL RESIDENTIAL (Lot size noted)
-  IND INDUSTRIAL