

**REVISED AGENDA ITEM 30
AND SUPPLEMENTAL MATERIAL**

Board of Directors Meeting

**September 4, 2013
10:00 am**

Location:
San Bernardino Associated Government
Santa Fe Depot – SANBAG Lobby 1st Floor
1170 W. 3rd Street
San Bernardino, CA

Discussion Calendar

30. Award Construction Contract No. C13153 for State Route 210 Segment 9 & 10 Establish Existing Planting Project

That the Board acting as the San Bernardino County Transportation Authority:

1. Award Construction Contract No. C13153 to Natures Image, Inc. as the lowest responsive and responsible bidder for the State Route 210 Segment 9 & 10 Establish Existing Planting Project in the amount of \$912,261.00.
2. Approve Allowances/Contingency for Contract No. C13153 for the State Route 210 Segment 9 & 10 Establish Existing Planting Project totaling \$295,226.10.
3. Approve Amendment to the Fiscal Year 2013/2014 budget for Task No. 0824 State Route 210 Construction, to replace \$325,000 State Transportation Improvement Program - Regional Improvement Program funds with \$325,000 Measure I 1990 Valley Fund – Major Projects.

This agenda item is being revised to include the recommendation to award Construction Contract No. C13153 to Natures Image, Inc. as the lowest responsive and responsible bidder for the State Route 210 Segment 9 & 10 Establish Existing Planting Project. This information was not available at the time the agenda packet was mailed.



- San Bernardino County Transportation Commission
- San Bernardino County Transportation Authority
- San Bernardino County Congestion Management Agency
- Service Authority for Freeway Emergencies

Minute Action

REVISED AGENDA ITEM: 30

Date: September 4, 2013

Subject: Award Construction Contract No. C13153 for State Route 210 Segment 9 & 10 Establish Existing Planting Project

Recommendation:* That the Board acting as the San Bernardino County Transportation Authority:

1. Award Construction Contract No. C13153 to Natures Image, Inc. as the lowest responsive and responsible bidder for the State Route 210 Segment 9 & 10 Establish Existing Planting Project in the amount of \$912,261.00.
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*

	<p><i>Approved</i> Board of Directors</p> <p>Date: _____</p> <p>Moved: Second:</p> <p>In Favor: Opposed: Abstained:</p> <p>Witnessed: _____</p>										
<table border="1" style="margin: auto;"> <tr> <td>COG</td> <td></td> <td>CTC</td> <td></td> <td>CTA</td> <td>X</td> <td>SAFE</td> <td></td> <td>CMA</td> <td></td> </tr> </table>	COG		CTC		CTA	X	SAFE		CMA		
COG		CTC		CTA	X	SAFE		CMA			

Check all that apply.

BRD1309f-mb

Attachment: C13153 <http://portal.sanbag.ca.gov/mgmt/APOR-Mgmt/Shared%20Documents/C13153.docx>;
<http://portal.sanbag.ca.gov/mgmt/APOR-Mgmt/Shared%20Documents/DCSS%20C13153.xlsx> <http://portal.sanbag.ca.gov/mgmt/APOR-Mgmt/Shared%20Documents/CSS%20C13153.docx>

Background:

This item provides for award of a new construction contract based on the competitive low bid process. In November 2008, San Bernardino Associated Governments (SANBAG) approved Cooperative Agreement No. C09084 with the California Department of Transportation (Caltrans) whereby the State agreed to perform the Project Approval and Environmental Document and Plans, Specifications, and Estimates phases of project development for landscaping four SR 210 Segments, 8 through 11, between Sierra Avenue in Fontana and the SR 210/I 215 Interchange in San Bernardino.

In March 2011, the Board approved a Cooperative Agreement C10159 with Caltrans for SR 210 Segment 9 landscaping improvement project located between the Locust Avenue Overcrossing and 0.25 miles west of the Riverside Avenue Overcrossing in the City of Rialto.

In July 2011, the Board approved a Cooperative Agreement C10160 with Caltrans for SR 210 Segment 10 landscaping improvement project located from approximately 1650' west of Riverside Avenue Overcrossing in the City of Rialto to 1650' west of State Street Undercrossing in the City of San Bernardino.

Per these two Agreements, SANBAG would advertise, open bids, award, and approve the contracts in accordance with the California Public Contract Code and the California Labor Code. This agreement anticipated two contracts being issued: one for a highway-landscaping component, which included a one (1) year plant establishment, followed by another for four (4) years of plant maintenance known as "Establish Existing Planting".

In November 2011, the Board approved award of Contract No. C11169 to Diversified Landscape, Co. for the Segment 9 highway landscape constructing and one-year plant establishment component. This contract is scheduled for completion in October 2013.

In December 2011, the Board approved award of Contract No. C12098 to Kasa Construction, Inc. for the Segment 10 highway landscape constructing and one-year plant establishment component. This contract is scheduled for completion in November 2013.

On July 22, 2013, the Executive Director authorized (delegation per Policy 11000) the release of the Invitation for Bids (IFB) No. C13153 for the SR-210 Segment 9 & 10 Establish Existing Planting Project ("Project") and authorized staff to proceed directly to the Board with a recommendation for award of a construction contract for the Project based on the competitive low bid process.

The engineer's construction cost estimate was \$566,000. With supplemental items, agency furnished items, and contingency, the total project construction cost was estimated at \$826,000.

On July 22, 2013 the IFB was released. Three landscape companies responded to the Invitation for Bids and ordered plans. On August 1, 2013 a Pre-Bid Conference was held with two prospective bidders attending.

Recommendation 1 & 2:

On August 27, 2013, SANBAG received one (1) bid from Natures Image, Inc. in the amount of \$912,261.00. Staff reviewed the bid for discrepancies and compliance with the IFB requirements. Based on Staff's review of the bid documents, Natures Image, Inc.'s bid was found to be the apparent lowest responsive, responsible bid.

Given the difference of \$346,261 between the engineer's estimate and the contractor's bid, staff reviewed both to see why there is such a large discrepancy. The Segment 8 four year maintenance contract was recently awarded for \$499,186, which equates to approximately \$1,000,000 for two segments. The engineer's estimate for the subject contract was based on the expectation that by combining two segments would result in a reduction in the contract cost. This expectation was overly optimistic since the savings would be limited to the contractor's administrative costs. Given this, the potential savings by combining the two segments is in the range of 10%, which equates to a revised estimated cost of \$900,000.

Staff is recommending that Contract No. C13153 for the Project be awarded to **Natures Image, Inc.** in the amount of **\$912,261.00**.

Staff is also recommending approval of Allowances/Contingency for Contract No. C13153 for the Project, consisting of supplemental items, agency furnished and contingency, for a total amount of **\$295,226.10** (See Exhibit A). With the addition of Allowances/Contingency the total construction cost is **\$1,207,487.10**.

Recommendation 3:

In the current fiscal year budget this project was inadvertently budgeted with State Transportation Improvement Program - Regional Improvement Program funds (STIP-RIP) and not Measure I. Due to this error, the budget needs to be amended as follows:

- Decrease State Transportation Improvement Program - Regional Improvement Program funds by \$325,000 and increase Measure I 1990 Valley Fund – Major Projects funds by \$325,000.

Staff recommends the approval of this budget amendment.

Financial Impact: Funding for the contract is provided under Task No. 0824 State Route 210 Construction.

Reviewed By: SANBAG General Counsel and Contract Administrator have reviewed this item and the Contract.

Responsible Staff: Garry Cohoe, Director of Project Delivery

Exhibit A

Item	Item Description	Amount
BID ITEM WORK		
1	ESTABLISH EXISTING PLANTING SR-210 SEGMENT 9	\$ 477,561.00
2	ESTABLISH EXISTING PLANTING SR-210 SEGMENT 10	\$ 434,700.00
	SUBTOTAL (1)	\$ 912,261.00
SUPPLEMENTAL WORK		
1	Mulch (At end of EEP) 20% replacement	\$ 120,000.00
2	Shared Cost Repair Existing Irrigation	\$ 20,000.00
3	Rodent Infestation	\$ 8,000.00
4	Plant Replacement (frost)	\$ 56,000.00
	SUBTOTAL (2)	\$ 204,000.00
CONTINGENCIES		
3	10% of Construction Contract	\$ 91,226.10
	SUBTOTAL (3)	\$ 91,226.10
	Total SUPPLEMENTALS AND CONTINGENCY	\$ 295,226.10
SUMMARY		
1	Bid Item Work	\$ 912,261.00
2	Supplemental Work Items	\$ 204,000.00
3	Contingency (10%)	\$ 91,226.10
	TOTAL	\$ 1,207,487.10



CONTRACT SUMMARY SHEET

Contract No. C 13153 Amendment No. _____

By and Between

San Bernardino County Transportation Authority and Natures Image, Inc.

Contract Description SR 210 Segment 9 & 10 Establish Existing Planting

Board of Director's Meeting Date: Sept 4, 2013
Overview of BOD Action: Approved Contract C13153 and establish construction contingency

Is this a Sole-Source procurement? Yes No

CONTRACT OVERVIEW					
Original Contract Amount	\$	912,261.00	Original Contingency Amount	\$	295,226.10
Revised Contract Amount <i>Inclusive of prior amendments</i>	\$		Revised Contingency Amount <i>Inclusive of prior amendments</i>	\$	
Current Amendment Amount	\$		Contingency Amendment	\$	
TOTAL CONTRACT VALUE	\$	912,261.00	TOTAL CONTINGENCY VALUE	\$	295,226.10
TOTAL BUDGET AUTHORITY (contract value + contingency)					\$ 1,207,487.10

Contract Start Date 9/4/13	Current Contract Expiration Date 12/31/17	Revised Contract Expiration Date
Has the contract term been amended? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes - please explain.		

FINANCIAL INFORMATION				
<input checked="" type="checkbox"/> Budget authority for this contract currently exists in Task No. <u>0824</u> .				
<input type="checkbox"/> A Budget Amendment is required.				
How are we funding current FY? MSI 1990 Valley Fund Major Projects \$200,000				
<input type="checkbox"/> Federal Funds	<input type="checkbox"/> State Funds	<input type="checkbox"/> Local Funds	<input type="checkbox"/> TDA Funds	<input checked="" type="checkbox"/> Measure I Funds
Provide Brief Overview of the Overall Funding for the duration of the Contract:				
MSI 1990 Valley Fund Major Projects				
<input checked="" type="checkbox"/> Payable <input type="checkbox"/> Receivable				

CONTRACT MANAGEMENT INFORMATION	
Check all applicable boxes:	
<input checked="" type="checkbox"/> Retention? If yes, indicate % <u>5</u> .	
<input type="checkbox"/> Disadvantaged Business Enterprise (DBE) Goal _____ %	

Mike Barnum		8/29/13
Project Manager (Print Name)	Signature	Date
Gary Cohoe		9-3-13
Task Manager (Print Name)	Signature	Date
Andrea Zureick		9/3/13
Dir. of Fund Admin. & Programming (Print Name)	Signature	Date
Jeffery Hill		9/3/13
Contract Administrator (Print Name)	Signature	Date
W. STWARDSKI		9/3/13
Chief Financial Officer (Print Name)	Signature	Date

CONTRACT C13153

BY AND BETWEEN

SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY

AND

NATURES IMAGE, INC.

FOR

STATE ROUTE 210 SEGMENTS 9 & 10 ESTABLISH EXISTING PLANTING PROJECT

This Contract, is effective on the Effective Date as defined herein, by and between San Bernardino Associated Governments, acting as the San Bernardino County Transportation Authority (referred to hereinafter as "AUTHORITY"), whose address is 1170 W. 3rd Street, 2nd Floor, San Bernardino, California 92410-1715; and, Natures Image, Inc. (referred to hereinafter as "CONTRACTOR") whose address is 20361 Hermana Circle, Lake Forest, CA 92630. AUTHORITY and CONTRACTOR are each a "Party" and collectively the "Parties" herein.

RECITALS:

WHEREAS, AUTHORITY has determined that it requires services for State Route 210 Segments 9 and 10 Establish Existing Planting Project; and

WHEREAS, the work described herein cannot be performed by the employees of AUTHORITY; and

WHEREAS, CONTRACTOR has certified that they have the requisite personnel, experience, materials, and equipment and is fully capable and qualified to perform these services identified herein.

NOW, THEREFORE, the Parties hereto agree as follows:

ARTICLE 1. CONTRACT DOCUMENTS

The complete Contract includes all of the following Contract Documents:

- a) Advertisement for Bids, first publication date July 22, 2013.
- b) Bidder's Bid dated August 27, 2013.
- c) California Department of Transportation Standard Plans, dated May 2006, the Standard Specifications dated May 2006, and the Labor Surcharge and Equipment Rental Rates in effect on the date the work is accomplished.
- d) Drawings, entitled In the City of Rialto on Route 210 from Locust Avenue Overcrossing to 0.31 mile west of Riverside Avenue Overcrossing; In the Cities of Rialto and San Bernardino from 0.32 mile west of Riverside Avenue Overcrossing to 0.33 mile west of State Street Undercrossing.

e) Addenda No's 1 and 2

f) Project Plans dated _____ March 16, 2011; and Special Provisions dated July 18, 2013.

ARTICLE 2. PAYMENT

CONTRACTOR agrees to perform all work set forth and particularly described in this Contract, incorporated herein by reference, in consideration of the Base Bid to be paid by AUTHORITY in the amount of Nine Hundred Twelve Thousand, Two Hundred Sixty-one Dollars and Zero Cents (**\$912,261.00**).

ARTICLE 3. PAYMENT AND PERFORMANCE BONDS

CONTRACTOR will furnish a Payment bond, in the form provided by AUTHORITY in the IFB, in an amount equal to one hundred percent (100%) of the contract price, and a faithful Performance bond in the form provided by AUTHORITY in the IFB, in an amount equal to one hundred percent (100%) of the contract price, said bonds, to be secured from a surety company satisfactory to AUTHORITY within ten (10) working days of the Notice of Award of this Contract and prior to the commencement of work under this Contract. Bonds shall remain in full force and effect for a period of one (1) year following the date of filing of the Notice of Completion. Notwithstanding any other provision set forth in this Contract, performance by a Surety or Guarantor of any obligation of CONTRACTOR shall not relieve CONTRACTOR of any of its obligations thereunder.

ARTICLE 4. RETENTION/PROMPT PAYMENT

Pursuant to California and Business Professions Code 7108.5, CONTRACTOR is required to pay all subcontractors for satisfactory performance no later than 7 days from when the CONTRACTOR receives payment from the AUTHORITY. AUTHORITY shall hold retainage from CONTRACTOR of five percent (5%) from each invoice, and shall make prompt and regular incremental acceptances of portions, as determined by AUTHORITY of the contract work and pay retainage to the CONTRACTOR based on these acceptances. The CONTRACTOR or subcontractor(s) shall return all monies withheld in retention from all subcontractors within 30 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work. Any delay or postponement of payment may take place only for good cause and with AUTHORITY's prior written approval. Any violation of these provisions shall subject CONTRACTOR to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative or judicial remedies otherwise available to the CONTRACTOR or subcontractor in the event of; a dispute involving late payment or nonpayment by the CONTRACTOR; deficient subcontractor performance and/or non-compliance by a subcontractor. This Article applies to all subcontractors.

ARTICLE 5. COMPENSATION

The AUTHORITY agrees to pay, and CONTRACTOR agrees to accept in full payment for the work outlined in the Contract documents, the sum of **Nine Hundred Twelve Thousand, Two Hundred Sixty-One Dollars and Zero Cents (\$912,261.00)**, subject to additions and deductions, if any, in accordance with said documents [including without limit that compensation due for unit price work shall be the actual number of such units performed multiplied by the unit price]. Payment shall not be made more often than once each thirty (30) days, nor shall the amount be paid in excess of ninety-five percent (95%) of the Contract at time of completion. Payment requests shall not be deemed properly completed unless certified payrolls and any other mandatory submittals have been properly completed and submitted for each week worked during the time period covered by said payment request. Final payment to be made after acceptance of the Project. The Bid Schedule presented below is incorporated into this Contract by this reference.

APPROVED BID SCHEDULE

ITEM NO.	ITEM CODE	DESCRIPTION	UNIT MEASURE	ESTIMATED QUANTITY	UNIT COST	TOTAL COST
1	070012	ESTABLISH EXISTING PLANTING Segment 9	LS	1	\$ 477,561.00	\$ 477,561.00
2	070012	ESTABLISH EXISTING PLANTING Segment 10	LS	1	\$ 414,700.00	\$ 414,700.00
TOTAL PRICE \$						\$ 912,261.00

ARTICLE 6. TAXES, DUTIES AND FEES

Except to the extent expressly provided otherwise elsewhere in this Contract, CONTRACTOR shall pay when due, and the compensations set forth in this Contract shall be inclusive of all a) local, municipal, state, and federal sales and use taxes; b) excise taxes; c) taxes on personal property owned by CONTRACTOR; and d) all other governmental fees and taxes or charges of whatever nature applicable to CONTRACTOR to enable it to conduct business.

ARTICLE 7. AVAILABILITY OF FUNDS

The award and performance of this Contract is contingent on the availability of funds. If funds are not allocated or available for the continuance of work performed by the CONTRACTOR, work directly or indirectly involved may be suspended or terminated by AUTHORITY at the end of the period for which funds are available. When AUTHORITY becomes aware that any portion of work, which will or may be affected by a shortage of funds, it will notify CONTRACTOR within fifteen (15) days. Nothing herein shall relieve AUTHORITY from its obligation to compensate CONTRACTOR for work performed pursuant to this Contract. No penalty shall accrue to AUTHORITY in the event this provision is exercised.

ARTICLE 8. DOCUMENTATION AND RIGHT TO AUDIT

CONTRACTOR shall provide AUTHORITY, or other authorized representatives or agents of AUTHORITY, access to CONTRACTOR's records, which are directly related to this Contract for the purpose of inspection, auditing or copying. CONTRACTOR shall maintain all records related to this Contract in an organized way in the original format, electronic and hard copy, conducive to professional review and audit, for a period of three (3) years from the date of final payment by AUTHORITY, except in the event of litigation or settlement of claims arising out of this Contract in which case CONTRACTOR agrees to maintain records through the conclusion of all such litigation, appeals or claims related to this Contract. CONTRACTOR further agrees to maintain separate records for costs of work performed by change order. CONTRACTOR shall allow AUTHORITY or its representatives or agents to reproduce any materials as reasonably necessary. This Article applies to all subcontractors at any tier that is performing work under this Contract.

ARTICLE 9. SCHEDULE

CONTRACTOR agrees to complete the work within the time period as stipulated in the Special Provisions attached herein. CONTRACTOR shall incur no costs and shall not perform or furnish any work, services or equipment under this Contract, unless and until AUTHORITY has issued a written Notice To Proceed (NTP).

ARTICLE 10. CONTRACTORS LICENSE

CONTRACTOR agrees that he is currently the holder of a valid license as a CONTRACTOR in the State of California and that the license is the correct class of license for the work described in the project plans and specifications. CONTRACTOR further agrees to maintain license through the entire duration of Contract.

ARTICLE 11. NONDISCRIMINATION/ EQUAL EMPLOYMENT OPPORTUNITY

11.1 CONTRACTOR agrees to comply with the regulations relative to nondiscrimination in federally assisted programs of the Department of transportation (DOT), Title 49 CFR Part 21 as they may be amended from time to time, which are herein incorporated by this reference and made part of this Contract. The following minimum specific requirement activities of the Equal Employment Opportunity (EEO):

11.1.1 CONTRACTOR will work with the AUTHORITY and the Federal Government in carrying out EEO obligations and in their review of his/her activities under the Contract.

11.2.1 CONTRACTOR will accept as his 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."

11.2 EEO Officer: CONTRACTOR will designate and submit to the AUTHORITY in writing the EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active CONTRACTOR program of EEO and who must be assigned adequate AUTHORITY and responsibility to do so.

11.3 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' 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:

11.3.1 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.

11.3.2 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.

- 11.3.3 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 minority group employees.
- 11.3.4 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.
- 11.3.5 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.
- 11.4 Recruitment: When advertising for employees, 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 minority groups in the area from which the project work force would normally be derived.
- 11.4.1 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 minority group applicants. To meet this requirement, CONTRACTOR will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority group applicants may be referred to CONTRACTOR for employment consideration.
- 11.4.2 In the event CONTRACTOR has a valid bargaining agreement providing for exclusive hiring hall referrals, he is expected to observe the provisions of that agreement to the extent that the system permits CONTRACTOR's compliance with EEO contract provisions. (The DOL has held that where implementation of such agreements has the effect of discriminating against minorities or women, or obligates the CONTRACTOR to do the same, such implementation violates Executive Order 11246, as amended.)
- 11.4.3 CONTRACTOR will encourage his present employees to refer minority group applicants for employment. Information and procedures with regard to referring minority group applicants will be discussed with employees.
- 11.5 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:
- 11.5.1 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.
- 11.5.2 CONTRACTOR will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

- 11.5.3 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.
- 11.5.4 CONTRACTOR will promptly investigate all complaints of alleged discrimination made to the CONTRACTOR in connection with his 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 his avenues of appeal.
- 11.6 Training and Promotion: CONTRACTOR will assist in locating, qualifying, and increasing the skills of minority group and women employees, and applicants for employment.
- 11.6.1 Consistent with 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. Where feasible, 25 percent of apprentices or trainees in each occupation shall be in their first year of apprenticeship or training. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision.
- 11.6.2 CONTRACTOR will advise employees and applicants for employment of available training programs and entrance requirements for each.
- 11.6.3 CONTRACTOR will periodically review the training and promotion potential of minority group and women employees and will encourage eligible employees to apply for such training and promotion.
- 11.7 Unions: If CONTRACTOR relies in whole or in part upon unions as a source of employees, CONTRACTOR will use his/her best efforts to obtain the cooperation of such unions to increase opportunities for minority groups and women within the unions, and to effect referrals by such unions of minority and female employees. Actions by CONTRACTOR either directly or through a CONTRACTOR's association acting, as agent will include the procedures set forth below:
- 11.7.1 CONTRACTOR will use best efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minority group members and women for membership in the unions and increasing the skills of minority group employees and women so that they may qualify for higher paying employment.

- 11.7.2 CONTRACTOR will use best 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.
- 11.7.3 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 CONTRACTOR, CONTRACTOR shall so certify to the AUTHORITY and shall set forth what efforts have been made to obtain such information.
- 11.7.4 In the event the union is unable to provide CONTRACTOR with a reasonable flow of minority and women referrals within the time limit set forth in the collective bargaining agreement, 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 minority group persons and women. (The DOL has held that it shall be no excuse that the union with which CONTRACTOR has a collective bargaining agreement providing for exclusive referral failed to refer minority employees.) In the event the union referral practice prevents CONTRACTOR from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such CONTRACTOR shall immediately notify the AUTHORITY.
- 11.8 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. CONTRACTOR shall notify all potential subcontractors and suppliers of his/her EEO obligations under this contract. Disadvantaged business enterprises (DBE), as defined in 49 CFR Part 23 shall have equal opportunity to compete for and perform subcontracts, which the CONTRACTOR enters into pursuant to this contract. CONTRACTOR will use his best efforts to solicit bids from and to utilize DBE subcontractors or subcontractors with meaningful minority group and female representation among their employees. CONTRACTOR shall obtain lists of DBE construction firms from AUTHORITY's DBE Liaison. CONTRACTOR will use his best efforts to ensure subcontractor compliance with their EEO obligations.
- 11.9 Records and Reports: CONTRACTOR shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three (3) years following completion of the contract work and shall be available at reasonable times and places for inspection by authorized representatives of the AUTHORITY and the FHWA. The records kept by the CONTRACTOR shall document the following: The number of minority and non-minority group members and women employed in each work classification on the project; the progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; the progress and efforts being made in locating, hiring, training, qualifying, and upgrading minority and female employees; and the progress and efforts being made in securing the services of DBE subcontractors or subcontractors with meaningful minority and female representation among their employees.

11.9.1 CONTRACTOR will submit an annual report to the AUTHORITY each July 1st 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. If on-the-job training is being required by special provision, CONTRACTOR will be required to collect and report training data.

ARTICLE 12. CONFLICT OF INTEREST

CONTRACTOR agrees that it presently has no interest financial or otherwise and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Contract. CONTRACTOR further agrees that in the performance of this Contract, no person having any such interest shall be employed. CONTRACTOR is obligated to fully disclose to SANBAG Policy 10102 regarding disclosure.

ARTICLE 13. PROPRIETARY RIGHTS/CONFIDENTIALITY

13.1 If, as part of this Contract, CONTRACTOR is required to produce materials, documents data, or information ("Products"), then CONTRACTOR, if requested by AUTHORITY, shall deliver to AUTHORITY the original of all such products which shall become the property of AUTHORITY.

13.2 All materials, documents, data or information obtained from AUTHORITY' data files or any AUTHORITY medium furnished to CONTRACTOR in the performance of this Contract will at all times remain the property of AUTHORITY. Such data or information may not be used or copied for direct or indirect use outside of this Project by CONTRACTOR without the express written consent of AUTHORITY.

13.3 Except as reasonably necessary for the performance of Services, CONTRACTOR and its employees and agents shall hold in confidence the materials and information referred to in this Article, which are produced by CONTRACTOR for AUTHORITY in the performance and completion of CONTRACTOR's Services under this Contract, until released in writing by AUTHORITY, except to the extent such materials and information become a part of public domain information through no fault of CONTRACTOR, or its employees or agents.

13.4 CONTRACTOR shall not use AUTHORITY's name or photographs of the Project in any professional publication, magazine, trade paper, newspaper, seminar or other medium without first receiving the express written consent of AUTHORITY.

13.5 All press releases relating to the Project or this Contract, including graphic display information to be published in newspapers, magazines, and other publications, are to be made only by AUTHORITY unless otherwise agreed to by CONTRACTOR and AUTHORITY.

13.6 CONTRACTOR agrees that it, and its employees, agents, and subcontractors will hold confidential and not divulge to third parties without the prior written consent of

AUTHORITY, any information obtained by CONTRACTOR from or through AUTHORITY in connection with CONTRACTOR's performance of this Contract, unless (a) the information was known to CONTRACTOR prior to obtaining same from AUTHORITY pursuant to a prior contract; or (b) the information was obtained at the time of disclosure to CONTRACTOR, or thereafter becomes part of the public domain, but not as a result of the fault or an unauthorized disclosure of CONTRACTOR or its employees, agents, or subcontractors, or (c) the information was obtained by CONTRACTOR from a third party who did not receive the same, directly or indirectly, from AUTHORITY and who had, to CONTRACTOR's knowledge and belief, the right to disclose the same.

ARTICLE 14. TERMINATION

14.1 Termination for Convenience - AUTHORITY shall have the right at any time, with or without cause, to terminate further performance of Services by giving thirty (30) calendar days written notice to CONSULTANT specifying the date of termination. On the date of such termination stated in said notice, CONSULTANT shall promptly discontinue performance of Services and shall preserve work in progress and completed work ("Work"), pending AUTHORITY's instruction, and shall turn over such Work in accordance with AUTHORITY's instructions. CONTRACTOR shall deliver to AUTHORITY, in accordance with AUTHORITY instructions, all deliverables prepared by CONTRACTOR or its subcontracts or furnished to CONTRACTOR by AUTHORITY. Upon such delivery, CONTRACTOR may then invoice AUTHORITY for payment in accordance with the terms hereof. If CONTRACTOR has fully and completely performed all obligations under this Contract up to the date of termination, CONTRACTOR shall be entitled to receive from AUTHORITY as complete and full settlement for such termination a pro rata share of the contract cost and a pro rata share of any fixed fee, for such Services satisfactorily executed to the date of termination. CONTRACTOR shall be entitled to receive the actual cost incurred by CONTRACTOR to return CONTRACTOR' field tools and equipment, if any, to it or its suppliers' premises, or to turn over work in progress in accordance with AUTHORITY's instructions plus the actual cost necessarily incurred in effecting the termination.

14.2 Termination for Cause - In the event CONTRACTOR shall file a petition in bankruptcy court, or shall make a general assignment for the benefit of its creditors, or if a petition in bankruptcy court shall be filed against CONTRACTOR or a receiver shall be appointed on account of its solvency, or if CONTRACTOR shall default in the performance of any express obligation to be performed by it under this Contract and shall fail to immediately correct (or if immediate correction is not possible, shall fail to commence and diligently continue action to correct) such default within ten (10) calendar days following written notice thereof, AUTHORITY may, without prejudice to any other rights or remedies AUTHORITY may have, (a) hold in abeyance further payments to CONTRACTOR; (b) stop any services of CONTRACTOR or its subcontractors related to such failure until such failure is remedied; and/or (c) terminate this Contract by written notice to CONTRACTOR specifying the date of termination. In the event of such termination by AUTHORITY, AUTHORITY may take possession of the deliverables and finish Services by whatever method AUTHORITY may deem expedient. A waiver by AUTHORITY of one default of CONTRACTOR shall not be considered to be a waiver of any subsequent default of CONTRACTOR, nor be deemed to waive, amend, or modify any term

of this Contract.

14.2.1 In the event of termination, CONTRACTOR shall deliver to AUTHORITY all finished and unfinished products prepared under this Contract by CONTRACTOR or its subcontractors or furnished to CONTRACTOR by AUTHORITY.

14.3 All claims for compensation or reimbursement of costs under any of the foregoing provisions shall be supported by documentation submitted to AUTHORITY, satisfactory in form and content to AUTHORITY and verified by AUTHORITY. In no event shall CONTRACTOR be entitled to any prospective profits or any damages because of such termination.

ARTICLE 15. INSURANCE

Without in anyway affecting the indemnity herein provided and in addition thereto the CONTRACTOR shall, at the CONTRACTOR's expense, and prior to commencement of any work, procure and maintain in full force insurance from the beginning of the work through final acceptance by AUTHORITY. In addition, CONTRACTOR shall maintain completed operations coverage with a carrier acceptable to AUTHORITY through the expiration of the patent deficiency in construction statute of repose set forth in Section 337.1 of the Code of Civil Procedure. The policies shall be written by a carrier authorized to do business in the State of California with a Best rating of A-VII or better, and shall be written with at least the following limits of liability:

15.1 Workers' Compensation and Employer's Liability Insurance – Workers' Compensation insurance shall be provided in an amount and form to meet all applicable requirements of the Labor Code of the State of California. Employer's Liability Insurance shall be provided in amounts not less than:

- (a) \$1,000,000 for each accident for bodily injury by accident.
- (b) \$1,000,000 policy limit for bodily injury by disease.
- (c) \$1,000,000 for each employee for bodily injury by disease.

15.2 Liability Insurance – CONTRACTOR shall carry General Liability and Umbrella or Excess Liability Insurance covering all operations performed by or on behalf of the Contractor providing insurance for bodily injury liability, and property damage liability for the limits of liability indicated below and including coverage for:

- (a) Premises and Operations coverage, with no exclusion or limitation for the perils of Explosion, Collapse or underground Operations;
- (b) No limitation or exclusion for CONTRACTOR's liability arising out of work performed by its subcontractors; Products and completed operations.
- (c) No limitation or exclusion to the definition of Products and Completed Operations coverage as contained in the ISO CF 00 01 12 04 or its equivalent;
- (d) No limitation or exclusion to the definition of "Insured Contract" as contained in the ISO Commercial General Liability form CG 00 01 12 04 or its equivalent.

15.2.1 Liability Limits/Additional Insureds - Insurance shall be written on ISO occurrence form CG 00 01 12 04 (or its equivalent) and the policy must contain the following endorsement, which must be stated on the certificate of insurance:

Designated Construction Project(s) General Aggregate Limit ISO Form CG 25 03 03 97 (or a substitute form providing equivalent coverage) showing the project on the form schedule.

The limits of liability shall be at least:

- (a) \$2,000,000 for each occurrence (combined single limit for bodily injury and property damage).
- (b) \$2,000,000 aggregate for products-completed operations.
- (c) \$10,000,000 general aggregate. This general aggregate limit shall apply separately to the Contractor's work under this Contract.
- (d) \$5,000,000 umbrella or excess liability. Combined total Commercial General Liability and Excess Liability limits of \$25,000 will be required for projects with a contract value in excess of \$25,000,000.
- (e) Umbrella or excess policy shall follow form over the CONTRACTOR's General Liability coverage and shall provide a separate aggregate limit for products and completed operations coverage. The umbrella or excess policy shall contain a clause stating that it takes effect (drops down) in the event the primary limits are impaired or exhausted.

15.3 **AUTHORITY**, their authorized officers, employees, agents and volunteers, shall be named as additional insureds with respect to liability arising out of or connected with work or operations performed by or on behalf of the **CONTRACTOR** under this Contract. Coverage for such additional insureds shall not extend to liability:

- (a) Arising from any defective or substandard condition of the Roadway which existed at or prior to the time the **CONTRACTOR** commenced work, unless such condition has been changed by the work or scope of the work requires the **CONTRACTOR** to maintain existing Roadway facilities and the claim arises from the **CONTRACTOR**' failure to maintain; or
- (b) For claims occurring after the work is completed and accepted unless these claims are directly related to alleged acts or omissions of the **CONTRACTOR** which occurred during the course of the work; or
- (c) To the extent prohibited by Section 11580.04 of the Insurance Code.

15.3.1 The policy shall stipulate that the insurance afforded the additional insureds shall apply as primary insurance. Any other insurance or self-insurance maintained by **AUTHORITY** will be excess only and shall not be called upon to contribute with this insurance. Such additional insured coverage shall be provided by a policy provision or by an endorsement providing coverage at least as broad as Additional Insured (Form B) endorsement form CG 2010 07 04 and CG 20 37 07 04, as published by the

Insurance Services Office (ISO).

15.4 Automotive Liability Insurance – CONTRACTOR shall carry automobile liability insurance, including coverage for all owned, hired and non-owned automobiles. The primary limits of liability shall not be less than \$5,000,000 combined single limit each accident for bodily injury and property damage. Umbrella or excess liability coverage used to meet the required limits required under “Liability Limits/Additional Insureds,” shall also apply to automobile liability.

15.5 Intentionally Left Blank

15.6 Builder’s Risk Insurance –CONTRACTOR shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, property insurance written on a builder’s risk “Special Form Cause of Loss” or equivalent policy form in an amount equal to the not to exceed amount of the Contract, plus the cost of materials supplied or installed by others on a full replacement cost basis. The Builder’s Risk Policy shall include a soft cost endorsement that covers AUTHORITY’s soft costs equal to twenty percent (20%) of the contracts full value. Soft costs are defined as; certain expenses, in addition to labor and materials, required to complete the project that has been delayed due to unexpected physical damage and include, but are not limited to the following: legal/accounting fees, design, or other professional fees, financing costs, taxes, general administration, lease expenses, permit fees and insurance premiums. This insurance shall include interests of AUTHORITY, CONTRACTOR and its sub-contractors in the Project as insured’s as their interest may appear. The insurance shall cover without limitation, loss or damage to the work arising from the perils covered under “Special Form Cause of Loss” form coverage including, without duplication of coverage for theft, fire, lightning, explosion or hail, smoke, aircraft or vehicles, riots or civil commotion, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, false-work, testing and delay of startup, temporary buildings, property in transit and while stored at a temporary location, debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for CONTRACTOR’s services and expenses required as a result of such loss. During the Project construction period, the AUTHORITY, CONTRACTOR and its sub-contractors shall mutually waive all rights of recovery for damages caused by fire or other perils covered by the Builders Risk “Special Form Cause of Loss” insurance. All applicable policies of insurance covering the work or the property of the CONTRACTOR or sub-contractor shall be endorsed to provide a waiver of subrogation in favor of AUTHORITY, CONTRACTOR and sub-contractors as their interest may appear.

15.7 Waiver of Subrogation Rights – CONTRACTOR shall require the carriers of the above required coverages to waive all rights of subrogation against AUTHORITY, and its authorized officers, employees, agents and volunteers, CONTRACTOR and subcontractors by endorsement to the policy.

15.8 Policy Forms, Endorsements and Certificates – CONTRACTOR’s General Liability Insurance shall be provided under Commercial General Liability policy form No. CG 00 01 12 04 as published by the Insurance Services Office (ISO) or under a policy form at least as broad as policy form No. CG 00 01 12 04.

15.9 Proof of Insurance – Evidence of insurance in a form acceptable to AUTHORITY, including the required “additional insured” endorsements, shall be provided within ten (10) business days after Notice of Award is given to CONTRACTOR. Prior to commencing any work, CONTRACTOR shall furnish AUTHORITY with a certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth in this Article. If the insurance company elects to cancel or non-renew coverage for any reason, CONTRACTOR will provide AUTHORITY thirty (30) days written notice of such cancellation or nonrenewal. If the policy is cancelled for nonpayment of premium, CONTRACTOR will provide AUTHORITY ten (10) days written notice. Certificates of Insurance, as evidence of required insurance, for the General Liability, Auto Liability and Umbrella-Excess Liability policies shall set forth deductible amounts applicable to each policy and all exclusions which are added by endorsement to each policy, and shall also include the Contract Number and Project Manager’s name on the face of the certificate. AUTHORITY may expressly allow deductible clauses, which it does not consider excessive, overly broad, or harmful to interests of AUTHORITY. Standard ISO form No. CG 00 01 12 04 or similar exclusions will be allowed provided they are not inconsistent with the requirements of this section. Allowance of any additional exclusion is at the discretion of AUTHORITY. Regardless of the allowance of exclusions or deductions by AUTHORITY, CONTRACTOR shall be responsible for any deductible amount and shall warrant that the coverage provided to AUTHORITY is consistent with the requirements of this section. CONTRACTOR is required to provide certified copies of all insurance policies within ten (10) days of AUTHORITY’s written request of said copies.

15.10 Enforcement – AUTHORITY may take any steps as are necessary to assure CONTRACTOR’s compliance with its insurance obligations as identified within this Article. Failure to continuously maintain insurance coverage as provided herein is a material breach of Contract. In the event the CONTRACTOR fails to maintain any insurance coverage required, AUTHORITY may, but is not required to, maintain this coverage and charge the expense to the CONTRACTOR or terminate this Contract. The required insurance shall be subject to the approval of AUTHORITY, but any acceptance of insurance certificates by AUTHORITY shall in no way limit or relieve the CONTRACTOR of the CONTRACTOR’s duties and responsibilities under the Contract to indemnify, defend and hold harmless AUTHORITY, and its authorized officers, employees, agents and volunteers. Insurance coverage in the minimum amounts set forth herein shall not be construed to relieve the CONTRACTOR for liability in excess of such coverage, nor shall it preclude AUTHORITY from taking other actions as is available to it under any other provision of the contract or law. Failure of AUTHORITY to enforce in a timely manner any of the provisions of this section shall not act as a waiver to enforcement of any of these provisions at a later date.

15.11 Miscellaneous – Nothing contained in this Contract is intended to make the public or any member thereof a third party beneficiary of the Insurance or Indemnity provisions of the Contract, nor is any term, condition or other provision of the Contract intended to establish a standard of care owed to the public or any member thereof.

ARTICLE 16. INDEMNITY

CONTRACTOR agrees to indemnify, defend (with counsel reasonably approved by AUTHORITY) and hold harmless AUTHORITY, the State of California, City of Rialto, City of San Bernardino and their authorized officers, employees, agents and volunteers (indemnitees) from any and all claims, actions, losses, damages, and/or liability arising out of this Contract from any cause whatsoever, including the acts, errors, or omissions of any person and for any costs or expenses incurred by the indemnitees on account of any claim except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of indemnitees. CONTRACTOR's indemnification provision shall apply regardless of the existence or degree of fault of indemnitees. CONTRACTOR's indemnification obligation applies to the indemnitees' "passive" negligence but does not apply to the indemnitees' "sole" or "active" negligence or "willful misconduct" within the meaning of Civil Code Section 2782.

ARTICLE 17. OWNERSHIP OF DOCUMENTS

All deliverables, including but not limited to, drawings, reports, worksheets, and other data developed by CONTRACTOR under this Contract shall become the property of AUTHORITY when prepared, whether delivered to AUTHORITY or not.

ARTICLE 18. INDEPENDENT CONTRACTOR

CONTRACTOR is and shall be at all times an independent CONTRACTOR. Accordingly, all work provided by CONTRACTOR shall be done and performed by CONTRACTOR under the sole supervision, direction and control of CONTRACTOR. AUTHORITY shall rely on CONTRACTOR for results only, and shall have no right at any time to direct or supervise CONTRACTOR or CONTRACTOR's employees in the performance or as to the manner, means and methods by which work is to be performed. All workers furnished by CONTRACTOR pursuant to this Contract, and all representatives of CONTRACTOR shall be and remain the employees or agents of CONTRACTOR or of CONTRACTOR's subcontractors at all times, and shall not at any time or for any purpose whatsoever be considered employees or agents of AUTHORITY.

ARTICLE 19. ATTORNEY'S FEES

If any legal action is instituted to enforce or declare any party's rights hereunder, each Party, including the prevailing party, must bear its own costs and attorneys' fees. This Article shall not apply to those costs and attorneys' fees directly arising from any third party legal action against a Party hereto and payable under the Indemnification provision.

ARTICLE 20. BONDS

As a condition of issuance of the Notice To Proceed (NTP), CONTRACTOR agrees to furnish to AUTHORITY a satisfactory Payment Bond in an amount equal to one hundred percent (100%) of the original contract amount and a Performance Bond in an amount equal to one hundred percent (100%) of the original contract amount. These bonds shall be secured from a surety company (ies) admitted in the state of California and satisfactory to AUTHORITY. Bonds shall remain in force and effect for a period of one year following the date of filing of Notice of Completion. If the

contract price is increased, AUTHORITY may in its sole discretion, require an increase in the amount of the bonds or new bonds covering the increased amount. These bonds are to be in effect from NTP through the term of this Contract.

ARTICLE 21. PRECEDENCE

The Contract documents consist of these general terms and conditions and the specifications, drawings and special provisions referenced herein and incorporated by this reference. The following order of precedence shall apply: a) this Contract and all attachments; b) IFB provisions; c) CONTRACTOR’s Bid; all other documents, if any, cited herein or incorporated by reference.

ARTICLE 22. COMMUNICATIONS/NOTICES

All notices and communications permitted or required to be given hereunder shall be deemed duly given (a) upon actual delivery, if delivery is personally made; or (b) upon delivery into the United States Mail if delivery is by postage paid certified mail (return receipt requested), fax or private courier. Each such notice shall be sent to the respective party at the address indicated below or to any other address as the respective parties may designate from time to time by a notice given in accordance with this Article. A change in address may be made by notifying the other Party in writing. All communications pursuant to or in connection with this Contract shall be marked with AUTHORITY’s contract number.

To CONTRACTOR	To AUTHORITY
Natures Image, Inc.	San Bernardino Associated Governments
20361 Hermana Circle	1170 W. 3rd Street, 2nd Floor
Lake Forest, CA 92630	San Bernardino, CA 92410-1715
Attn: Michelle Caruana, President and Secretary	Attn: Garry Cohoe , Director of Project Delivery
Phone: 949-680-4400	Phone: (909) 884-8276
Fax: 946-680-4450	cc: Contract Administrator

ARTICLE 23. GOVERNING LAW AND VENUE

This Contract shall be subject to the law and jurisdiction of the State of California. The Parties acknowledge and agree that this Contract was entered into and intended to be performed in whole or substantial part in San Bernardino County, California. The Parties agree that the venue for any action or claim brought by any party to this Contract will be the Superior Court of California, San Bernardino County, Civil Division. Each Party hereby waives any law or rule of court, which would allow them to request or demand a change of venue. If any action or claim concerning this Contract is brought by any third party, the Parties hereto agree to use their best efforts to obtain a change of venue to the Superior Court of California, San Bernardino County, Civil Division.

ARTICLE 24. FEDERAL, STATE AND LOCAL LAWS

CONTRACTOR warrants that in performance of this Contract, it shall comply with all applicable federal, State and local laws, ordinances, rules and regulations.

ARTICLE 25. LIQUIDATED DAMAGES

Should CONTRACTOR fail to complete all work within the time specified herein, including any written authorized changes, the actual damages to AUTHORITY for the delay will be difficult or impossible to determine. Therefore, in lieu of actual damages, CONTRACTOR shall pay AUTHORITY the sum of \$950 per each calendar day of delay as identified in the weekly statement of working days issued by the AUTHORITY. AUTHORITY shall not withhold liquidated damages if the delay is determined by AUTHORITY to be excusable in accordance with the Force Majeure article of this Contract. AUTHORITY may extend the period of performance of this Contract when in its sole judgment, sufficient justification to do so.

ARTICLE 26. ASSIGNMENT

CONTRACTOR agrees not to sell, transfer, or otherwise dispose of any contract part either voluntarily or by operation of law without prior written consent from AUTHORITY.

ARTICLE 27. SUBCONTRACTS

27.1 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 AUTHORITY. 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 CONTRACTOR's own organization (23 CFR 635).

27.1.1 "Its own organization" shall be construed to include only workers employed and paid directly 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, assignee, or agent of the prime CONTRACTOR.

27.1.2 "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 on the contract as a whole and in general are to be limited to minor components of the overall contract. The contract amount upon which the requirements set forth in this Contract is computed includes the cost of material and manufactured products, which are to be purchased or produced by the CONTRACTOR under the contract provisions.

27.2 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 AUTHORITY determines is necessary to assure the performance of the Contract.

27.3 No portion of the Contract shall be sublet, assigned or otherwise disposed of except with the written consent of AUTHORITY, or authorized representative, and such consent when given shall not be construed to relieve CONTRACTOR of any responsibility for the fulfillment of the contract. Written consent will be given only after AUTHORITY has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract. CONTRACTOR does not have the right to make any substitutions of any subcontractor listed in its Bid, except in accordance with the State of California Public Contract Code, Section 4100 et. seq. AUTHORITY's consent to substitution shall not be deemed to relieve CONTRACTOR of its obligation to fully comply with the requirements of this Contract. CONTRACTOR shall be responsible for all acts and omissions of its employees, subcontractors and their employees. CONTRACTOR is responsible for coordinating all work performed by the subcontractors. AUTHORITY reserves the right, but not the obligation, to review the subcontractor agreements for this project and to require any modifications so as to conform to the requirements set forth in this Contract.

ARTICLE 28. COORDINATION WITH OTHER CONTRACTS

AUTHORITY may undertake or award other contracts for work, and CONTRACTOR shall cooperate fully with the other CONTRACTOR's and AUTHORITY's employees or agents and carefully fit its own work to such additional work as may be directed by AUTHORITY. CONTRACTOR shall not commit or permit any act, which will interfere with the performance of work by any other CONTRACTOR or by AUTHORITY.

ARTICLE 29. PREVAILING WAGE REQUIREMENTS

29.1 All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), 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 State Department of Labor 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 State 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.

29.2 Contributions made or costs reasonably anticipated for bona fide fringe benefits under the State Department of Labor on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of this Article; 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 herein. 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 of this section) and the Davis-Bacon poster (WH1321) 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.

29.3 AUTHORITY 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 this Contract shall be classified in conformance with the wage determination. AUTHORITY shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met: (1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and (2) The classification is utilized in the area by the construction industry; and (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

29.4 If CONTRACTOR and the laborers and mechanics to be employed in the classification (if known), or their representatives, and AUTHORITY 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 AUTHORITY to the State Department of Labor. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the AUTHORITY or will notify AUTHORITY within the 30-day period that additional time is necessary.

29.5 In the event the CONTRACTOR, the laborers or mechanics to be employed in the classification or their representatives, and AUTHORITY do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), AUTHORITY shall refer the questions, including the views of all interested parties and the recommendation of AUTHORITY, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise AUTHORITY or will notify the AUTHORITY within the 30-day period that additional time is necessary.

29.6 The wage rate (including fringe benefits where appropriate) determined pursuant to this section, should 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.

29.7 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.

29.8 If 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 State Department of Labor has found, upon the written request of the CONTRACTOR, that the applicable standards have been met. The State Department of Labor may require the CONTRACTOR to set aside in a separate account assets for the meeting of obligations under the plan or program.

29.9 Withholding - AUTHORITY shall upon its own action or upon written request of an authorized representative of the State Department of Labor withhold or cause to be withheld from the CONTRACTOR under this Contract or any other contract with the same prime CONTRACTOR, 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 (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by this Contract, AUTHORITY may, after written notice to CONTRACTOR, sponsor, applicant, or owner, 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.

29.10 Payrolls and basic records - Payrolls and basic records relating thereto shall be maintained by 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 (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). 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 herein, daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the State Department of Labor has found that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program, 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.

29.11 Apprenticeship - If CONTRACTOR employs 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.

29.12 Payroll - CONTRACTOR shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the AUTHORITY if the agency is a party to the contract, but if the agency is not such a party, the CONTRACTOR will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to AUTHORITY. The payrolls submitted shall set out accurately and completely all of the information required to be maintained Regulations, 29 CFR Part 5. This information may be submitted in any form desired. Optional Form WH347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029005000141), U.S. Government Printing Office, Washington, DC 20402. CONTRACTOR is responsible for the submission of copies of payrolls by all subcontractors.

29.12.1 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: (1) That the payroll for the payroll period contains the information required to be maintained under Regulations, 29 CFR part 5 and that such information is correct and complete; (2) 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; (3) 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.

29.12.2 The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH347 shall satisfy the requirement for submission of the Statement of Compliance required by this section. 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.

29.12.3 CONTRACTOR or subcontractor shall make the records required under of this section available for inspection, copying, or transcription by authorized representatives of the AUTHORITY, and shall permit such representatives to interview employees during working hours on the job. If CONTRACTOR or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to CONTRACTOR, sponsor, applicant, or owner, 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.

29.13 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, which 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 CONTRACTOR's or subcontractors registered program shall be observed.

29.13.1 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.

29.14 Trainees - 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 that 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. 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.

- 29.15 Compliance with Copeland Act requirements - CONTRACTOR shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference in this Contract. CONTRACTOR or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5 (a)(1) through (10) and such other clauses as AUTHORITY may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. CONTRACTOR shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.
- 29.16 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.
- 29.17 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.
- 29.18 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 State Department of Labor. Disputes within the meaning of this clause include disputes between the CONTRACTOR (or any of its subcontractors) and AUTHORITY, or the employees or their representatives.
- 29.19 Certification of eligibility- (i) By entering into this Contract, CONTRACTOR certifies that neither it (nor he or she) nor any person or firm who has an interest in 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). 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). The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

29.20 Contract Work Hours and Safety Standards Act- AUTHORITY shall cause or require the following clauses set forth in paragraphs (b)(1), (2), (3), and (4) of this section in full in any 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 5.5(a) or 4.6 of part 4 of this title. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

29.21 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.

29.22 Violation; liability for unpaid wages; liquidated damages - In the event of any violation of the clause set forth in paragraph (b)(1) of this section the CONTRACTOR and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such CONTRACTOR and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in 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 this section.

29.22.1 Withholding for unpaid wages and liquidated damages - AUTHORITY shall upon its own action or upon written request of an authorized representative of the State Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by 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 this section.

29.23 Subcontracts - CONTRACTOR or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. CONTRACTOR shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.

29.23.1 In addition to the clauses contained in paragraph (b), in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 5.1, AUTHORITY shall insert a clause requiring that the CONTRACTOR or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years

from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, AUTHORITY shall insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by CONTRACTOR or subcontractor for inspection, copying, or transcription by authorized representatives of AUTHORITY and the State Department of Labor, and the CONTRACTOR or subcontractor will permit such representatives to interview employees during working hours on the job.

ARTICLE 30. SAFETY

30.1 In the performance of this Contract, 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 AUTHORITY 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. 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 CONTRACTOR and any subcontractor shall not permit any employee, in performance of this 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. 333).

30.2 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. 333).

ARTICLE 31. GRATUITIES

CONTRACTOR, its employees, agents or representatives shall not offer or give to an officer, official or employee of AUTHORITY, gifts, entertainment, payments, loans or other gratuities to influence the award of a contract or obtain favorable treatment under a contract.

ARTICLE 32. CONFIDENTIALITY

Any AUTHORITY materials to which the CONTRACTOR or its agents has access to or materials prepared by the CONTRACTOR during the term of this Contract shall be held in confidence by the CONTRACTOR, who shall exercise all reasonable precautions to prevent disclosure of confidential information to anyone except as authorized by AUTHORITY. CONTRACTOR shall not release any reports, information of promotional materials or allow for the use of any photos of the project

for any purposes without written approval from AUTHORITY.

ARTICLE 33. CONVICT LABOR

In connection with the performance of work under this Contract, CONTRACTOR agrees not to employ any person, undergoing sentence of imprisonment at hard labor. This Article does not include convicts who are on parole or probation.

ARTICLE 34. INSPECTION OF SITE

CONTRACTOR acknowledges that it has investigated and satisfied itself as to the conditions affecting the work including, but not restricted to, those bearing upon transportation, disposal, handling and storage of materials, availability of labor, water, electricity and roads and uncertainties of weather, river stages, tides or similar conditions at the site, the conformation and conditions of the ground, the character of equipment and facilities needed preliminary to and during prosecution of the work. CONTRACTOR fully acknowledges that it has satisfied itself as to the character, quality and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the site, including all exploratory work done by AUTHORITY, as well as from information presented by the drawings and specifications made a part of this Contract. Any failure by CONTRACTOR to acquaint itself with the available information will not relieve it from responsibility for the difficulty of cost of successfully or interpretations made by CONTRACTOR on the basis of the information made available by AUTHORITY.

ARTICLE 35. SEVERABILITY

The partial or complete invalidity in whole or in part, of any one or more of the provisions of this Contract shall not affect the validity or continuing force and effect of any other provision.

ARTICLE 36. FORCE MAJEURE

CONTRACTOR shall not be in default of this Contract in the event that the work performed by CONTRACTOR is temporarily interrupted or discontinued for any of the following reasons; riots, wars, sabotage, acts of terrorism, civil disturbances, insurrection, explosion, pandemics, quarantines, acts of God, acts of government, and fires, severe weather, or other catastrophic events which are beyond the reasonable control of CONTRACTOR and which CONTRACTOR could not reasonably be expected to have prevented or controlled. Other catastrophic events do not include the financial inability of the CONTRACTOR to perform or failure of the CONTRACTOR to obtain any necessary permits or licenses from other governmental agencies or the right to use the facilities of any public utility where such failure is due solely to the acts or omissions of the CONTRACTOR.

ARTICLE 37. INCORPORATION OF RECITALS

The Recitals stated above are true and correct and are hereby incorporated into this Contract.

ARTICLE 38. EFFECTIVE DATE

The date that this Contract is executed by AUTHORITY shall be the Effective Date of this Contract.

-----SIGNATURES ON FOLLOWING PAGE-----

IN WITNESS WHEREOF, the Parties hereto have executed this Contract below.

NATURES IMAGE, INC.

**SAN BERNARDINO COUNTY
TRANSPORTATION AUTHORITY**

By: _____
Michelle Caruana
President

By: _____
W.E. Jahn
President, Board of Directors

Date: _____

Date: _____

Licensed in accordance with an act
providing for registration of contractors.

APPROVED AS TO FORM

License Number

By: _____
Eileen Monaghan Teichert
General Counsel

Federal Employer
Identification Number

CONCURRENCE

By: _____
Jeffery Hill
Contract Administrator