

**PUBLIC WORKS PROJECT CONTRACT
CITY OF CHICO/GARLAND-DBS, INCORPORATED**

**SHINGLE & MOD BIT ROOF SYSTEM - BUILDINGS 100 & 200
(Project Title)**

**933-000-8800/50557-933-4800
933-000-8801/50034-933-4800
(Project Nos.)**

THIS PUBLIC WORKS CONTRACT ("CONTRACT") is made as of 10/5/22, by and between the City of Chico, a municipal corporation of the State of California ("City"), and Garland/DBS, Incorporated, an individual corporation ("Contractor").

City and Contractor agree as follows:

ARTICLE 1 BASIC INFORMATION

- 1.1 City: CITY OF CHICO
- 1.2 City's Representative: Mark Sorensen, City Manager
- 1.3 City's address: P. O. Box 3420, Chico, CA 95927-3420
- 1.4 Contractor: Garland/DBS, Incorporated
- 1.5 Contractor's Representative: Joshua Perry
- 1.6 Contractor's address: 3800 East 91st Street, Cleveland, OH 44105
- 1.7 Project name and location: Shingle & Mod Bit Roof System
Buildings 100 & 200
901 First Street, Chico, CA 95928
- 1.8 City's Project Manager,
Contract Documents prepared by: Jacques Vos, Facilities Manager
Monica Bressoud, Administrative Specialist
- 1.9 The following listed
addenda are incorporated
in the Contract Documents: Exhibit "A" Description of Project
Exhibit "B" Contract Sum
- 1.10 Terms defined in City's General Provisions shall have the same meanings when used in this Contract.

ARTICLE 2 WORK

- 2.1 Contractor shall provide all labor, materials, equipment, tools, and services required by City and shall perform all work described in the Contract Documents. Contractor agrees to do additional Work arising from changes ordered by City pursuant to Section H of the General Provisions.

ARTICLE 3 CONTRACT TIME

- 3.1 Contractor shall commence the Work on the date specified in City's Notice to Proceed. The Work shall be fully completed within 120 days (the "Contract Time") after the date of commencement specified in City's Notice to Proceed.

ARTICLE 4 LIQUIDATED DAMAGES

- 4.1 City and Contractor agree that if the Work is not completed within the Contract Time, City's damages would be extremely difficult or impracticable to determine. Therefore, City and Contractor agree that if Contractor fails to complete the Work within the Contract Time, Contractor shall pay to City, on demand, as liquidated damages and not as a penalty, the sum of Five Hundred Dollars (\$500.00) for each day after the expiration of the Contract Time that the Work remains incomplete, and that this amount is a reasonable estimate of and a reasonable sum for such damages. City may deduct any liquidated damages owed to City, as determined by City, from any payments otherwise payable to Contractor under this Contract.
- 4.2 Nothing contained herein shall limit City's rights or remedies against Contractor for any default other than failure to complete the Work within the Contract Time. This provision for liquidated damages shall not be applicable nor act as a limitation upon City if Contractor abandons the Work. In such event, Contractor shall be liable to City for all losses incurred.

ARTICLE 5 CONTRACT SUM

- 5.1 The Contract Sum is: Four Hundred Forty-Eight Thousand, Seven Hundred and Ninety Dollars (\$448,790.00).
- 5.2 City shall pay to Contractor, for the performance of the Work, the Contract Sum subject to adjustment for alternates, unit price items, changes ordered by City, and as otherwise provided in the Contract Documents.
- 5.3 Unit prices, if any, and their respective estimated quantities, if specified, are listed in Exhibit "B" Contract Sum.

The Contract Sum will be increased by an amount equal to the unit price multiplied by the actual number of units of each unit price item incorporated in the Work. Adjustment of unit prices, if actual quantities vary from estimated quantities, is subject to the provisions of Section H of the General Provisions.

ARTICLE 6 CONTRACT DOCUMENTS


6.1 The Contract Documents consist of this Contract, General Provisions, Supplementary Conditions, Exhibits, Specifications, List of Drawings and Drawings, Certificates of Insurance, Payment Bond, Performance Bond, List of Subcontractors, Notice to Proceed, Contract Modifications, and all other documents identified in this Contract copies of which have been provided to Contractor by City.

ARTICLE 7 DUE AUTHORIZATION

7.1 The person or persons signing this Contract on behalf of Contractor hereby represent and warrant to City that this Contract is duly authorized, signed, and delivered by Contractor.

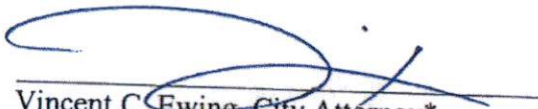
THIS CONTRACT is entered into as of the date first written above and is executed in at least three original counterparts. One counterpart original shall be delivered to Contractor and two counterpart originals shall be delivered to City.

CITY OF CHICO



By: Mark Sorensen, City Manager*

*Authorized pursuant to Section 3.20.060 of the Chico Municipal Code.

APPROVED AS TO FORM:


Vincent C. Ewing, City Attorney*
*Approved pursuant to The Charter of the City of Chico § 906(D)

REVIEWED AS TO CONTENT:


Barbara Martin,
Interim Administrative Services Director*

*Reviewed by Finance and Information Systems

CONTRACTOR


Brian Lambert *Scott Craft*

General Manager / VP
Title

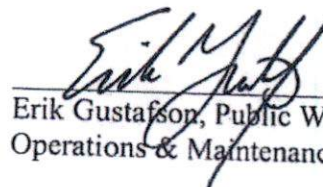
Garland/DBS Inc: B
(Name and Classification of Licensee)

949380
(California License Number)

6/30/2024
(Expiration Date)



APPROVED AS TO CONTENT:


Erik Gustafson, Public Works Director
Operations & Maintenance

(Complete notary acknowledgment for all signatures of Contractor. If signed by other than the sole proprietor, a general partner, or corporate officer, attach original notarized power of attorney or corporate resolution.)

CA Std Form 06/01/22

L:\Purchasing\2022 Purchasing\Garland-Bldng 100 & 200 Roof Repairs

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

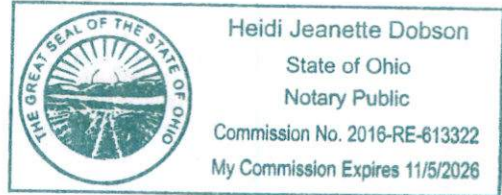
STATE OF ~~CALIFORNIA~~ ^{OHIO})
COUNTY OF Cuyahoga)

On 9-12-2022, before me Heidi Jeanette Dobson a Notary Public, personally appeared Scott Cleft, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of ~~California~~ ^{Ohio} that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Heidi Jeanette Dobson
Signature



**PUBLIC WORKS PROJECT CONTRACT
CITY OF CHICO/GARLAND-DBS, INCORPORATED**

**SHINGLE & MOD BIT ROOF SYSTEM-BUILDINGS 100&200
(Project Title)**

933-000-8800/50557-933-4800

933-000-8801/50034-933-4800

(Project No.)

**EXHIBIT "A"
Description of Project**

Project consists of a shingle and mod bit roof system at Buildings 100 & 200 in Chico, California, including:

Modified Bitumen Membrane

1. Tear off existing roof system (s) to the structural deck.
2. Locate and repair/replace all areas of damaged substrate prior to installing new roof system. Roofing manufacturer must have representative inspect structural deck prior to any new materials being installed.
3. Install two new roof hatches to match existing.
4. Install HPR Premium Glasbase.
5. Install 2-ply modified bitumen roofing system per specification.
6. Install new 24 coping cap at Building 100.
7. Install Title 24 compliant roof coating.
8. Install new flashings per details and specification.

Composition Shingles

1. Full removal and disposal of existing roofing materials.
2. Locate and repair/replace all areas of damaged substrate.
3. Remove and replace south side sheet metal gutter system.
4. Installation of HPR Underlayment.
5. Install new sheet metal components per job walk.
6. Install composition shingles per manufacturer specifications.

Exclusions

1. Permits are excluded.
2. Plumbing, Mechanical, and Electrical work is excluded.
3. Masonry work is excluded.
4. Interior temporary protection is excluded.

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EXHIBIT "B"

Contract Sum

Total maximum compensation for the services outlined herein shall not exceed \$448,790.00.

Compensation shall be based upon actual invoices received and shall be paid upon City review/approval of the work completed to-date.

Compensation for Labor Rate includes Prevailing Wage Requirements.

CITY OF CHICO
STANDARD GENERAL PROVISIONS

A. PROPOSAL REQUIREMENTS

(a) Examination of Contract Plans, Specifications, General and Special Provisions, and Site of Work. The bidder is required to examine carefully the site of, and the contract plans, specifications and general and special provisions for, the work contemplated. It will be assumed that the bidder has investigated and is satisfied as to the conditions to be encountered as to the character, quality, and quantities of work to be performed and materials to be furnished, and as to the requirements of the specifications, the general and special provisions, and the contract. It is mutually agreed that submission of a proposal shall be considered prima facie evidence that the bidder has made such examination.

(b) Proposal Form. All proposals must be made upon blank forms as furnished in the contract documents. All proposals must give the prices proposed, in figures, and must be signed by the bidder, with his address. If the proposal is made by an individual, his name and post office address must be shown. If made by a firm or partnership, the name and post office address of each member of the firm or partnership must be shown. If made by a corporation, the proposal must show the name of the state under the laws of which the corporation was chartered and the names, titles, and business address of the president, secretary, and treasurer.

(c) Formal Protest. Bidders may submit a formal protest prior to the bid opening regarding bid specifications or procedures or within five calendar days of the City's notice of intent to award or reject bids. Any protest should specifically state what is being protested and should be sent to the attention of the City Manager. The City's Procurement Protest Procedures are available upon request.

(d) Rejection of Proposals Containing Alterations, Erasures, or Irregularities. Proposals may be rejected if they show any alterations of form, additions not called for, conditional or alternative bids, incomplete bids, erasures, or irregularities of any kind.

The City reserves the right to reject any or all proposals and to waive any irregularities in any or all proposals.

(e) Bidder's Guaranty. All bids shall be presented under sealed cover and shall be accompanied by cash, cashier's check, certified check, or bidder's bond, made payable to the City of Chico, for an amount equal to at least ten percent (10%) of the amount of said bid, and no bid shall be considered, unless such cash, cashier's check, certified check, or bidder's bond is enclosed therewith.

B. CONTRACT AWARD AND EXECUTION

(a) Award of Contract. The award of the contract, if it be awarded, will be to the lowest responsible bidder whose proposal complies with all the requirements described. The award, if made, will be made within the time frame established in the Notice to Contractor. All bids will be compared on the basis of the Facilities Manager's Estimate of quantities of work to be done.

(b) Execution of Contract. The contract shall be signed by the successful bidder and returned, together with the contract bonds, within ten (10) days, not including Sundays, after the bidder has received notice that the contract has been awarded. No proposal shall be considered binding upon the City until the execution of the contract.

Failure to execute a contract and file acceptable bonds, as provided herein within ten (10) days, not including Sundays, after the bidder has received notice that the contract has been awarded, shall be just cause for the annulment of the award and the forfeiture of the proposal guaranty.

(c) Return of Bidder's Guaranties. Within ten (10) days after the award of the contract, the City of Chico will return the proposal guaranties accompanying such of the proposals which are not to be considered in making the

award. All other proposal guaranties will be held until the contract has been finally executed, after which they will be returned to the respective bidders whose proposals they accompany.

(d) Contract Bonds. The Contractor shall furnish two good and sufficient bonds of a corporate surety authorized to do business in the State of California and having a financial rating in Best's Insurance Guide of at least "B," or in the alternative, an unlicensed surety having an "A" rating. Each of the said bonds shall be executed in a sum equal to the contract price. One of the said bonds shall guarantee the faithful performance of the said contract by the Contractor; and the other of the said bonds shall be furnished as required by the terms of an act entitled:

"An act to secure the payment of the claims of persons employed by contractors upon public works, and the claims of persons who furnish materials, supplies, teams, implements, or machinery used or consumed by such contractors in the performance of such works, and prescribing the duties of certain public officers with respect thereto; approved May 10, 1919, as amended.

Form of bond required may be examined at the office of the Public Works Director or copies will be furnished, if desired, to prospective bidders.

Whenever any surety or sureties on any such bonds, or on any bonds required by law for the protection of the claims of laborers and material men, become insufficient, or the Public Works Director has cause to believe that such surety or sureties have become insufficient, a demand in writing may be made of the Contractor for such further bond or bonds or additional surety not exceeding that originally required, as is considered necessary, considering the extent of the work remaining to be done. Thereafter no payment shall be made upon such contract to the Contractor or any assignee of the Contractor until such further bond or bonds or additional surety has been furnished.

C. SCOPE OF WORK

(a) Work to be Done. The work to be done consists of furnishing all labor, methods and processes, implements, tools, machinery, and materials, except as otherwise specified, which are necessary and required to construct and put in complete order for use the portion of the street, road, public right of way, or public property designated in the contract, and to leave the grounds or property in a neat condition.

(b) Alterations. The City of Chico reserves the right to increase or decrease the quantity of any item or portion of the work or to omit portions of the work as may be deemed necessary or expedient by the Facilities Manager, also to make such alterations or deviations, increases or decreases, additions or omissions, in the plans and specifications, as may be determined during the progress of the work to be necessary and advisable.

(c) Extra Work. New and unforeseen work will be classed as extra work when such work cannot be covered by any of the various items or combinations of items for which there is a bid price.

The Contractor shall do no extra work except upon written order from the Facilities Manager. For such extra work, the Contractor shall receive payment as previously agreed upon in writing, or he shall be paid on force account.

Upon receipt of a written order for extra work from the Facilities Manager the Contractor shall provide a written response in no more than five (5) working days detailing the work and the costs for same.

(d) Removal of Obstructions. The Contractor shall remove and dispose of all structures, debris, or other obstructions of any character to the construction of the street or road, if and as required by the Facilities Manager.

The Contractor shall remove and dispose of all trees designated by the Facilities Manager as obstructions to the proper completion of the work.

(e) Final Cleaning Up. Before acceptance and final payment, the Contractor shall clean the street or road, borrow pits, and all ground occupied by him in connection with the work, of all rubbish, excess materials, temporary structures, and equipment; and all parts of the work shall be left in a neat and presentable condition.

D. CONTROL OF THE WORK

(a) Authority of the Facilities Manager. The Facilities Manager shall decide all questions which may arise as to the quality or acceptability of materials furnished and work performed, and as to the manner of performance and rate of progress of the work; all questions which arise as to the interpretation of the plans and specifications; all questions as to the acceptable fulfillment of the contract on the part of the Contractor; and all questions as to claims and compensation.

The Facilities Manager's decision shall be final and he shall have executive authority to enforce and make effective such decisions and orders as the Contractor fails to carry out promptly.

(b) Plans. All authorized alterations affecting the requirements and information given on the approved plans shall be in writing. No changes shall be made of any plan or drawing after the same has been approved by the Facilities Manager, except by direction of the Facilities Manager.

Working drawings or plans for any structure not included in the plans furnished by the Facilities Manager, shall be approved by the Facilities Manager before any work involving these plans shall be performed, unless approval be waived in writing by the Facilities Manager.

It is mutually agreed, however, that approval by the Facilities Manager of the Contractor's working plans does not relieve the Contractor of any responsibility for accuracy of dimensions and details, and that the Contractor shall be responsible for agreement and conformity of his working plans with the approved plans and specifications.

(c) Conformity with Plans and Allowable Deviation. Finished surfaces in all cases shall conform with the lines, grades, cross-sections, and dimensions shown on the approved plans. Deviations from the approved plans, as may be required by the exigencies of construction, will be determined in all cases by the Facilities Manager and authorized in writing.

(d) Interpretation of Plans and Specifications. Should it appear that the work to be done, or any matter relative thereto, is not sufficiently detailed or explained in these specifications, plans, and the special provisions, the Contractor shall apply to the Facilities Manager for such further explanations as may be necessary, and shall conform to such explanation or interpretation as part of the contract, so far as may be consistent with the intent to the original specifications. In the event of doubt or question relative to the true meaning of the specifications, reference shall be made to the Facilities Manager, whose decision thereon shall be final.

In the event of any discrepancy between any drawing and the figures written thereon, the figures shall be taken as correct.

(e) Superintendence. Whenever the Contractor is not present on any part of the work where it may be desired to give direction, orders will be given by the Facilities Manager in writing, and shall be received and obeyed by the superintendent or foreman in charge of the particular work in reference to which orders are given.

(f) Lines and Grades. All distances and measurements are given and will be made in a horizontal plane. Grades are given from the top of stakes or nails, unless otherwise noted on the plans.

Three consecutive points shown on the same rate of slope must be used in common, in order to detect any variance from a straight grade, and in case any such discrepancy exists, it must be reported to the Facilities Manager. If such a discrepancy is not reported to the Facilities Manager, the Contractor shall be responsible for any error in the finished work.

(g) Inspection. The Facilities Manager shall at all times have access to the work during construction, and shall be furnished with every reasonable facility for ascertaining full knowledge respecting the progress, workmanship, and character of materials used and employed in the work.

Whenever the Contractor varies the period during which work is carried on each day, he shall give due notice to the Facilities Manager, so that proper inspection may be provided. Any work done in the absence of the Facilities Manager will be subject to rejection.

The inspection of the work shall not relieve the Contractor of any of his obligations to fulfill the contract as prescribed. Defective work shall be made good, and unsuitable materials may be rejected, notwithstanding the fact that such defective work and unsuitable materials have been previously overlooked by the Facilities Manager and accepted or estimated for payment.

Projects financed in whole or in part with state or federal funds shall be subject to inspection at all times by the authorized representatives of the agencies involved.

(h) Removal of Defective and Unauthorized Work. All work which is defective in its construction or deficient in any of the requirements of these specifications shall be remedied, or removed and replaced by the Contractor in an acceptable manner, and no compensation will be allowed for such correction.

Any work done beyond the lines and grades shown on the plans or established by the Facilities Manager, or any extra work done without written authority, will be considered as unauthorized and will not be paid for.

Upon failure on the part of the Contractor to comply forthwith any order of the Facilities Manager made under the provisions of this article, the Facilities Manager shall have authority to cause defective work to be remedied, or removed and replaced, and unauthorized work to be removed, and to deduct the costs thereof from any moneys due or to become due the Contractor.

(i) Final Inspection. Whenever the work provided and contemplated by the Contract shall have been satisfactorily completed and the final cleaning up performed, the Facilities Manager will make the final inspection.

E. CONTROL OF MATERIALS

(a) Samples and Tests. At the option of the Facilities Manager, the source of supply of each of the materials shall be approved by the Facilities Manager before delivery is started and before such materials are used in the work. Representative preliminary samples of the character and quality prescribed shall be submitted by the Contractor or producer of all materials to be used in the work, for testing or examination as desired by the Facilities Manager.

All tests of materials furnished by the Contractor shall be made in accordance with commonly recognized standards of national organizations, and such special methods and tests as are prescribed in these specifications.

The Contractor shall furnish such samples of materials as are requested by the Facilities Manager, without charge. No material shall be used until it has been approved by the Facilities Manager. Samples will be secured and tested whenever necessary to determine the quality of material.

(b) Defective Materials. All materials not conforming to the requirements of these specifications shall be considered as defective, and all such materials, whether in place or not, shall be rejected. They shall be removed immediately from the site of the work unless otherwise permitted by the Facilities Manager. No rejected material, the defects of which have been subsequently corrected, shall be used until approved in writing by the Facilities Manager.

Upon failure on the part of the Contractor to comply with any order of the Facilities Manager made under the provisions of this article, the Facilities Manager shall have the authority to remove and replace defective material and to deduct the cost of removal and replacement from any moneys due to become due the Contractor.

F. LEGAL RELATIONS AND RESPONSIBILITIES TO THE PUBLIC

(a) Laws to be Observed. The Contractor shall keep himself fully informed of all existing and future State and National laws and all municipal ordinances and regulations of the City of Chico which, in any manner, affect those engaged or employed in the work, or the materials used in the work, or which in any way, affect the conduct of the work, and of all such orders and decrees of bodies or tribunals having any jurisdiction or authority over the same. Unless otherwise provided in these General Provisions or any subdivision thereof, the provisions of the California Public Contract Code shall not apply to the City of Chico, which is a charter city governed by the California Constitution, Article XI, Section 5.

(b) Hours of Labor. The Contractor shall forfeit, as penalty to the City of Chico Twenty-five Dollars (\$25) for each laborer, workman or mechanic employed in the execution of the contract by him, or by any subcontractor under him, upon any of the work herein mentioned, for each calendar day during which said laborer, workman, or mechanic is required or permitted to labor more than eight (8) hours in violation of the provisions of the Labor Code, and in particular, Sections 1810 to 1816 thereof, inclusive.

(c) Labor Discrimination. No discrimination shall be made in the employment of persons upon public works because of the race, color, or religion of such persons and every contractor for public works violating this section is subject to all the penalties imposed for a violation of Chapter 1 of Part VII, in accordance with the provisions of Section 1735 of the Labor Code.

(d) Prevailing Wage. The Contractor shall forfeit as penalty to the City of Chico Fifty Dollars (\$50) for each laborer, workman, or mechanic employed, for each calendar day or portion thereof, such stipulated in the Notice to Contractor for any work done under the attached contract by him, or by any subcontractor under him, in violation of the provisions of the Labor Code, and in particular, Section 1770 to 1781 thereof, inclusive.

The Director of Industrial Relations has ascertained the general prevailing rate of wages applicable to the work to be done to be as shown in the Notice to Contractor.

(d-1) Apprenticeship. The Contractor is directed to comply with Section 1777.5 of the California Labor Code as amended.

(e) License of Bidders. If the work specified herein requires licensing by the State of California, the low bidder will be required to submit substantiating evidence that he is in compliance with any State requirements relative to the performance of this work, prior to the award of bid by the City of Chico.

(f) Permits and Licenses. The Contractor shall procure all permits and licenses, pay all charges and fees, and give all notices necessary and incidental to the due and lawful prosecution of the work.

(g) Patents. The Contractor shall assume all responsibilities arising from the use of patented materials, equipment, devices, or processes used on or incorporated in the work.

(h) Public Convenience and Safety. The Contractor shall so conduct his operations as to cause the least possible obstruction and inconvenience to public traffic. Unless other existing streets are stipulated in the special provisions to be used as detours, all traffic shall be permitted to pass through the work.

Residents along the road or street shall be provided passage as far as practicable. Convenient access to driveways, houses, and buildings along the road or street shall be maintained and temporary crossings shall be provided and maintained in good condition. Not more than one cross or intersecting street or road shall be closed at any one time without the approval of the Facilities Manager.

The Contractor shall furnish, erect, and maintain such fences, barriers, lights, and signs as are necessary to give adequate warning to the public at all times that the road or street is under construction and of any dangerous conditions to be encountered as a result thereof, and he shall also erect, and maintain such warning and directional signs as may be furnished by the City.

(i) Responsibility for Damage. The City of Chico, the City Council, or the Facilities Manager shall not be answerable or accountable in any manner for any loss or damage that may happen to the work or any part thereof; or for any material or equipment used in performing the work; or for injury or damage to any person or persons, either workmen or the public; for damage to adjoining property from any cause whatsoever during the progress of the work or at any time before final acceptance.

(j) Indemnification Clause. To the fullest extent permitted by law, Contractor shall defend (with counsel of City's choosing), indemnify and hold City, its officials, officers, employees, volunteers and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any alleged acts, errors or omissions, or willful misconduct of Contractor, its officials, officers, employees, subcontractors, consultants or agents in connection with Contractor's use of City premises under this Agreement, including without limitation the payment of all consequential damages, expert witness fees and attorneys' fees and other related costs and expenses. Contractor shall reimburse City and its officials, officers, employees, agents, and/or volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided.

Contractor/Subconsultant/Subcontractor's responsibility for such defense and indemnity obligations shall survive the termination or completion of this Agreement for the full period of time allowed by law.

The defense and indemnification obligations of this Agreement are undertaken in addition to, and shall not in any way be limited by, the insurance obligations contained in this Agreement. Contractor's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by City, its directors, officials, officers, employees, agents, or volunteers.

Notwithstanding the above, Contractor's obligation to indemnify, defend and hold harmless the City, its officers, employees and agents for claims involving "Professional Liability" (claims involving acts, errors or omissions in the rendering of professional services) shall be limited to the extent caused by Contractor's negligent acts, errors or omissions.

This Section 7 shall only apply if Contractor is a design professional as defined in Civil Code section 2782.8(2), specifically, architects (Business & Professions Code section 5500), landscape architects (Business & Professions Code section 5615), professional engineers (Business & Professions Code section 6701), and professional land surveyors (Business & Professions Code section 8701).

(k) Contractor's Responsibility for Work. Except as provided above, until the formal acceptance of the work by the City of Chico, the Contractor shall have the charge and care thereof and shall bear the risk of injury or damage to any part thereof by the action of the elements or from any other cause, whether arising from the execution or from the non-execution of the work. The Contractor shall rebuild, repair, restore, and make good all injuries or damages to any portion of the work occasioned by any of the above causes before final acceptance and shall bear the expense thereof, except such injuries or damages occasioned by acts of the Federal Government or the public enemy.

(l) No Personal Liability. Neither the City of Chico, the City Council, the Facilities Manager, nor any other officer or authorized assistant or agent, shall be personally responsible for any liability arising under the contract.

(m) Responsibility of City. The City of Chico shall not be held responsible for the care or protection of any material or parts of the work prior to final acceptance, except as expressly provided in these specifications.

(n) General Liability Insurance. Contractor shall obtain commercial general liability insurance (occurrence policy form) from one or more U.S. domiciled insurance companies licensed to do business in the State of California with an A.M. Best Company rating of "B" or better or, in the alternative, an unlicensed U.S. domiciled company or companies with an "A" rating, which provides coverage for bodily injury, personal injury and property damage liability in the amount of at least \$1,000,000 per occurrence, and \$2,000,000 in the aggregate, with a

maximum policy deductible of \$5,000, or as approved by the City's Human Resources and Risk Management Office.

It shall be a requirement under this agreement that any available insurance proceeds broader than or in excess of the specific minimum Insurance coverage requirements and/or limits shall be available to the Additional Insured. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any Insurance policy or proceeds available to the named Insured, whichever is greater.

The insurance coverage required herein shall be evidenced by a certificate of insurance with policy endorsements and shall be executed by an authorized official of the insurer(s). In addition to the limits of coverage described above, the certificate of insurance shall provide that the insurer shall provide to City at least 30 days prior notice of cancellation or material change in coverage, or 10 days prior notice of cancellation for non-payment.

Contractor acknowledges and agrees that City of Chico, its officers, boards and commissions, and members thereof, its employees and agents, are covered as additional insureds with respect to any liability arising out of the activities of Contractor as the named insured. Such additional insured status shall be evidenced by a policy endorsement executed by an authorized official of the insurer(s). A blanket endorsement which provides additional insured status to any person or organization with whom Contractor, as named insured, has entered into a written contract, such as this Agreement, shall satisfy this requirement.

The insurance coverage required herein shall be primary and non-contributory insurance with respect to the City of Chico, its officers, officials and employees. Any insurance or self-insurance maintained by the City of Chico, its officers, officials or employees shall be in excess of the insurance afforded to the named insured by the insurance coverage required herein and shall not contribute to any loss. Such primary insurance status shall be evidenced by a policy endorsement issued by an authorized official of the insurer(s), and shall be at least as broad as CG 20 01 04 13. In the alternative, a letter issued by an authorized official of the insurer(s) and copies of the pertinent page(s) of the policy shall satisfy this requirement.

The limits of Insurance required in this agreement may be satisfied by a combination of primary and umbrella or excess Insurance. Any umbrella or excess Insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of City of Chico (if agreed to in a written contract or agreement) before City of Chico's self-insurance shall be called upon to protect it as a named Insured.

All self-insured retentions (SIR) must be disclosed to the City's Human Resources and Risk Management Office for approval and shall not reduce the limits of liability. Policies containing any (SIR) provision shall provide or be endorsed to provide that the SIR may be satisfied by either the named Insured or City of Chico. City of Chico reserves the right to obtain a full certified copy of any Insurance policy or endorsements. Failure to exercise this right shall not constitute a waiver of right to exercise later.

Automobile Liability Insurance. Contractor shall obtain automobile liability insurance from one or more U.S. domiciled insurance companies licensed to do business in the State of California with an A.M. Best Company rating of "B" or better which provides coverage for bodily injury, personal injury, and property damage liability in the amount of at least \$500,000 combined single limit for each occurrence. Evidence of such coverage shall be maintained by Contractor and provided to City upon request.

Subcontractor Insurance. Contractor agrees to include with all subcontractors in their subcontract the same requirements and provisions of this agreement including the indemnity and Insurance requirements to the extent they apply to the scope of the subcontractor's work. Subcontractor agrees to be bound to Contractor and City of Chico in the same manner and to the same extent as Contractor is bound to City of Chico under the agreement. Subcontractor further agrees to include the same requirements and provisions of this agreement, including the indemnity and Insurance requirements, with any Sub-subcontractor to the extent they apply to the scope of the Sub-subcontractor's work.

A copy of the City of Chico Insurance Provisions will be furnished to the subcontractor upon request.

Evidence of such coverage shall be maintained by Contractor and provided to City upon request.

Workers' Compensation Insurance. Contractor shall, at Contractor's expense, purchase and maintain in full force and effect workers' compensation insurance as required by Federal and State of California law. Contractor shall also require all of Contractor's subcontractors to maintain this insurance coverage. Proof of workers' compensation insurance or other documentation acceptable to City evidencing such insurance coverage shall be provided by Contractor or Contractor's subcontractors to City upon request.

For All Required Insurance. In the event such proof of any insurance is not delivered as required, or in the event such insurance is canceled, at any time and no replacement coverage is provided, the City has the right to, but not the duty, to obtain any insurance it deems necessary to protect its interests under this or any other agreement and to pay the premium. Any premium so paid by the City shall be charged to and promptly paid by Contractor or deducted from sums due the City, at the City's option.

(o) Additional Coverage. In addition to the coverage required hereinabove, City may also require Contractor to provide evidence of such other coverages in connection with this contract as its city manager may from time to time during the term of this contract require. Further, said city manager may also from time to time during the term of this contract require modification of the limits of coverage, hereinabove specified, either raising or lowering them to meet City's best interests. In any event, city manager shall provide Contractor ninety (90) days prior notice of any modification of said limits. No notification as to modifications in required coverage shall be required.

(p) Subrogation. Contractor shall agree to waive all rights of subrogation against City for losses arising from Work performed by the Contractor or Contractor's subcontractors for City under this Agreement.

G. PROSECUTION

(a) Subletting and Assignment. The Contractor shall give his personal attention to the fulfillment of the contract and shall keep the work under his control.

Subcontractors will not be recognized as such, and all persons engaged in the work of construction will be considered as employees of the contractor, and their work shall be subject to the provisions of the contract and specifications.

Where a portion of the work sublet by the Contractor is not being prosecuted in a manner satisfactory to the City Facilities Manager, the subcontractor shall be removed immediately on the requisition of the City Facilities Manager and shall not again be employed on the work.

The contract may be assigned only upon written consent of the City Facilities Manager.

(b) Character of Workmen. If any subcontractor or person employed by the Contractor shall fail or refuse to carry out the directions of the Facilities Manager or shall appear to the Facilities Manager to be incompetent or to act in a disorderly or improper manner, he shall be discharged immediately on the requisition of the Facilities Manager, and such person shall not again be employed on the work.

(c) Temporary Suspension of Work. The Facilities Manager shall have the authority to suspend the work wholly or in part, for such period as he may deem necessary, due to unsuitable weather, or to such other conditions as are considered unfavorable for the suitable prosecution of the work, or for such time as he may deem necessary, due to the failure on the part of the Contractor to carry out orders given, or to perform any provisions of the work. The Contractor shall immediately obey such order of the Facilities Manager and shall not resume the work until ordered in writing by the Facilities Manager.

(d) Time of Completion and Liquidated Damages. It is agreed by the parties to the contract that in case all the work called for under the contract is not completed before or upon the expiration of the time limit as set forth in these specifications, damage will be sustained by the City of Chico, and it is and will be impracticable to determine the actual damage which the City of Chico will sustain in the event of and by reason of such delay; and it is therefore agreed that the Contractor will pay to the City of Chico the sum of Five Hundred Dollars (\$500) per

day for each and every day's delay beyond the time prescribed to complete the work; and the Contractor agrees to pay such liquidated damages as herein provided, and in case the same are not paid, agrees that the City of Chico may deduct the amount thereof from any money due or that may become due the Contractor under the contract.

It is further agreed that in case the work called for under the contract is not finished and completed in all parts and requirements within the time specified, the City of Chico shall have the right to extend the time for completion or not, as may seem best to serve the interest of the City; and if it decides to extend the time limit for the completion of the contract, it shall further have the right to charge to the Contractor, his heirs, assigns, or sureties, and to deduct from the final payment for the work, all or any part, as it may deem proper, of the actual cost of engineering, inspection, superintendence, and other overhead expenses which are directly chargeable to the contract and which accrue during the period of such extension, except that the cost of final surveys and preparation of final estimate shall not be included in such charges.

The Contractor shall not be assessed with liquidated damages nor the cost of engineering and inspection during any delay in the completion of the work caused by acts of God or of the public enemy, acts of the City, fire floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather or delays of subcontractors due to such causes; provided, that the Contractor shall within ten (10) days from the beginning of any such delay notify the Facilities Manager in writing of the causes of delay, who shall ascertain the facts and the extend of delay, and his findings of the facts thereon shall be final and conclusive.

(e) Suspension of Contract. If at any time in the opinion of the City of Chico, the Contractor has failed to supply an adequate working force, or material of proper quality, or has failed in any other respect to prosecute the work with the diligence and force specified and intended in and by the terms of the contract, notice thereof in writing will be served upon him, and should he neglect or refuse to provide means for a satisfactory compliance with the contract, as directed by the Facilities Manager, within the time specified in such notice, the City Council in any such case shall have the power to suspend the operation of the contract. Upon receiving notice of such suspension, the Contractor shall discontinue said work, or such parts of it as the City of Chico may designate.

Upon such suspension, the Contractor's control shall terminate, and thereupon, the City of Chico or its duly authorized representative may take possession of all or any part of the Contractor's materials, tools, equipment, and appliances upon the premises, and use the same for the purpose of completing said contract, and hire such force and buy or rent such additional materials and supplies at the Contractor's expense as may be necessary for the proper conduct of the work and for the completion thereof; or may employ other parties to carry the contract to completion, employ the necessary workmen, substitute other machinery or materials, and purchase the materials contracted for, in such manner as the City of Chico may deem proper; or the City of Chico may annul and cancel the contract and relet the work or any part thereof.

Any excess of cost arising therefrom over and above the contract price will be charged against the Contractor and his sureties, who will be liable therefor. In the event of such suspension, all money due the Contractor or retained under the terms of this contract shall be forfeited to the City of Chico, but such forfeiture will not release the Contractor or his sureties from liability or failure to fulfill the contract. The Contractor and his sureties will be credited with the amount of money so forfeited toward any excess of cost over and above the contract price, arising from the suspension of the operations of the contract and the completion of the work by the City of Chico as provided above, and the Contractor will be so credited with any surplus remaining after all just claims for such completion have been paid. In the determination of the question whether there has been any such non-compliance with the contract as to warrant the suspension or annulment thereof, the decision of the City of Chico shall be binding on all parties to the contract.

(f) Right of Way. The right of way for the work to be constructed will be provided by the City. The Contractor shall make his own arrangements, and pay all expenses for additional area required by him outside of the limits of right of way, unless otherwise provided in the Special Provisions.

H. MEASUREMENT AND PAYMENT

(a) Extra and Force Account Work. Extra work as hereinbefore defined, when ordered and accepted, shall be paid for under a written work order in accordance with the terms therein provided. Payment for extra work will be made at the unit price or lump sum previously agreed upon by the Contractor and the Facilities Manager; or by force account.

If the work is done on force account, the Contractor shall receive the actual cost of all materials furnished by him as shown by his paid vouchers, plus fifteen percent (15%), and for all labor, equipment and terms that are necessary, he shall receive the current prices in the locality, which shall have been previously determined and agreed to in writing by the Facilities Manager and by the Contractor, plus fifteen percent (15%) provided, however, that the City of Chico reserves the right to furnish such materials required as it deems expedient, and the Contractor shall have no claims for profit on the cost of such materials. The price paid for labor shall include any compensation insurance paid by the Contractor.

All extra work and force account shall be adjusted daily upon report sheets, prepared by the Facilities Manager, furnished to the Contractor and signed by both parties, which daily reports shall thereafter be considered the true record of extra work or force account work done.

(b) Progress Payment. The City of Chico shall, once in each month, cause an estimate in writing to be made by the City Facilities Manager of the total amount of work done and the acceptable materials furnished and delivered by the Contractor on the ground and not used, to the time of such estimate, and the value thereof. The City of Chico shall retain five percent (5%) of such estimated value of the work done and fifty percent (50%) of the value of the materials so estimated to have been furnished and delivered and unused as aforesaid as part security for the fulfillment of the contract by the Contractor, and shall monthly pay to the Contractor, while carrying on the work, the balance not retained as aforesaid, after deducting therefrom all previous payments and all sums to be kept or retained under the provisions of the contract. No such estimate or payment shall be required to be made when, in the judgment of the City Facilities Manager, the work is not proceeding in accordance with the provisions of the contract, or when in his judgment, the total value of the work done since the last estimate amounts to less than three hundred dollars (\$300).

The Contractor may elect to receive 100 percent of payments due under the contract from time to time, without retention of any portion of the payment by the City of Chico, by depositing securities of equivalent value with the City in accordance with the provisions of Section 4590 of the Government Code. Such securities, if deposited by the Contractor, shall be valued by the City, whose decision on valuation of the securities shall be final.

(c) Final Payment. The Facilities Manager shall, after the completion of the contract, make a final estimate of the amount of work done thereunder, and the value of such work and file a Notice of Completion in the County Recorder's Office; and the City of Chico shall pay the entire sum as found to be due after deducting therefrom all previous payments and all amounts to be retained under the provisions of the contract. All prior partial estimates and payments shall be subject to correction in the final estimate and payment. The final payment shall not be due and payable until the expiration of thirty (30) days from the date of recording of the Notice of Completion in the County Recorder's Office.

It is mutually agreed between the parties to the contract that no certificate given or payments made under the contract, except the final certificate or final payment, shall be conclusive evidence of the performance of the contract, either wholly or in part, against any claim of the party of the first part, and no payment shall be construed to be an acceptance of any defective work or improper materials.

And the Contractor further agrees that the payment of the final amount due under the contract, and the adjustment and payment for any work done in accordance with any alterations of the same, shall release the City of Chico, the City Council and the Facilities Manager from any and all claims or liability on account of work performed under the contract or any alteration thereof.

(d) Complete and Operable Facility. Regardless of any and all specific details in the plans, specifications and contract documents, a complete and operable facility is contemplated and required. All questions, clarifications, comments, reservations and other indeterminate factors affecting his execution of the work will be

raised by the Contractor prior to his submittal of his bid to do the work and submittal of such bid will be accepted as evidence that he has done so.

All bid items include all labor, materials, tools, transportation, equipment, services and facilities required for the complete, proper and substantial installation of all work shown on the plans and outlined in these specifications. The work shall include all materials, appliances and apparatus not specifically mentioned herein or noted on the plans, but which are necessary to make a complete working installation of systems shown on the plans or described herein.

Items of work shown on the Plans or required in order to complete the work shown on the Plans but for which no separate Bid Item is shown shall be included in the bid price for various items shown and no separate payment therefore shall be made.

I. GUARANTEE

The Contractor shall guarantee all of his work against defective material or faulty workmanship for a period of one year after the date of acceptance of the work by the Owner.

The Contractor shall repair or replace to the satisfaction of the Facilities Manager any or all such work that may prove defective in workmanship or materials within that period, ordinary wear and tear and unusual abuse or neglect excepted, together with any other work which may be damaged or displaced in so doing.

In the event of failure to comply with the above mentioned conditions within a reasonable time after being notified in writing, the owner is authorized to have the defects repaired and made good at the expense of the Contractor who will pay the cost and charges therefore immediately upon demand.

The signing of the agreement by the Contractor shall constitute execution of the above guarantees. The Contract Performance Bond shall remain in full effect during the guarantee period and will not be released until the expiration of such period.

J. DISPUTE RESOLUTION PROCEDURES

1. Meet and Confer

In the event contractor disputes the City's written response, the contractor may demand an informal conference to meet and confer regarding the settlement of the issues in dispute. Upon such a demand, the City and contractor will schedule a meet and confer conference within 30 days.

2. Presentation of Claim Pursuant to Government Code Provisions

If a dispute is not settled pursuant to the meet and confer process, the contractor may file a claim as provided in Government Code sections 900 through 915.4.