# 10. PUBLIC WORKS CONTRACTS

## 10.00 • INTRODUCTION

**(Rev 11/12)**

This chapter is intended to provide guidance in the preparation, administration, and execution of small or minor public works contracts, i.e. those that fall within certain dollar amounts, as established by the Department of Finance at two-year intervals.

A "*" as used in this chapter indicates the amount currently in effect as of the date of SCM I publication, but is subject to change. The current amounts are contracts not exceeding $610,000* for most agencies, and not exceeding $839,000* for most Resources Agency departments, boards, commissions, or conservancies. This chapter applies to public works contracts delegated to State agencies by DGS under PCC §§ 10108 and 10108.5.

This chapter *does not* apply to public works contracts, which are defined as projects under PCC § 10108, by agencies listed in PCC § 10106. Currently, in addition to DGS, those agencies are: the Department of Transportation (DOT), Department of Water Resources (DWR), Department of Boating and Waterways (DB&W), the Department of Corrections and Rehabilitation (CDCR) and the Military Department. These agencies may execute public works contracts for any amount and are not subject to the review and approval of the DGS (PCC § 10100 et seq.).

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## 10.05 • DEFINITIONS

**(Rev 11/12)**

A. A public works contract is defined as "an agreement for the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement of any kind," (PCC § 1101). Note: Some contracts meet the definition of "public works" under Labor Code section 1720 thereby requiring prevailing wages, but may not meet the definition of public works under the State Contract Act and therefore may not be subject to other provisions of that Act and this chapter 10.

B. A project, for purposes of the State Contract Act (PCC § 10100 et seq.), is defined as the "erection, construction, alteration, repair, or improvement of any State-owned structure, building, road, or other State improvement of any kind with a total cost exceeding an amount periodically adjusted by the Director of Finance (PCC § 10105). The current amount is $270,000*.

## 10.10 • AUTHORIZATION OF PUBLIC WORKS CONTRACTS
**(Rev 11/12)**

NOTE: There is no NCB process available for Public Works Contracts.

Table 10.1

| Type of Contract | Authorization Required | Legal Reference |
|---|---|---|
| Under $270,000* | DGS/OLS | PCC § 10295 |
| Between $270,000* and $610,000* | DGS/RESD Form. 23 & DGS/OLS | PCC § 10108 |
| Up to $839,000* | Resources Agency department with consent of DGS | PCC § 10108.5 |
| Public works by:<br>DWR<br>DB&W<br>CDCR<br>DOT<br>DGS<br>Military Department | Attorney General or Department attorney | PCC §§ 10106, 10108, and 10220<br>Water Code § 120 et seq.<br>Harbor and Navigation Code § 50, et seq.<br>Penal Code § 7000 et seq.<br>GC § 14000 et seq.<br>GC § 14600 et seq.<br>Military and Veterans Code § 430, et seq. |

## 10.15 • PUBLIC WORKS CONTRACTS BETWEEN $1,000 AND $270,000*
**(Rev 11/12)**

A. Prepare the bid package as follows:

1. Prepare detailed plans and specifications.

   a. Work specifications

      Prepare clear and complete written specifications for the work. The specifications must be adequate in detail to apprise the prospective bidder of the character and extent of the work to be done and to ensure that the bids will be comparable and competitive. Room for speculation and conjecture must be reduced to a minimum.

   b. Product specifications

      Specifications may not be drafted in a manner that limits the bidding, directly or indirectly, to any one specific concern, or calling for a designated material, product, item, or service by a specific brand or trade name unless the specification is followed by the words "or equal." If the agency is aware of an equal product manufactured in California, it must

name such product in the specifications (PCC § 3400). Special rules applicable to roofing contracts are also contained in PCC sections 3002 and 3004.

c. The specifications shall provide for a period of at least thirty-five (35) days after the award of the contract for submission of data substantiating a request of an "or equal" item. PCC § 3400(b) provides an exception if the agency makes a finding, included in the specifications, that a particular material, product, item, or service is designated by specific brand or trade name for any of the following purposes: 1) so that a field test or experiment may be made to determine the product's suitability for future use; 2) in order to match other products in use on a particular public improvement either completed or in the course of completion; 3) in order to obtain necessary item that is only available from one source; or 4) in order to respond to a declared emergency.

2. Obtain approval from:

a. The State Fire Marshall (SFM):

SFM approval is required for changes in occupancy or use; remodels and modifications; and anytime flammable, combustible or hazardous materials will be stored or planned for the site.

b. The Department of General Services, Division of the State Architect, Access Compliance (DSA/AC):

DSA/AC review and approval is required for work involving construction of new, permanent or temporary buildings and facilities; or for renovation, structural repair, alteration, or additions to existing buildings and facilities including those identified as historic buildings.

3. Prepare the Notice to Contractors, including the following notifications:

a. A statement that the 5% small business preference, not to exceed $50,000, will be granted (i) to a certified small businesses, or (ii) to a non-small business if 25% of their bid is to a certified small business (a completed form STD 811 must be submitted with the bid proposal to request this preference).

b. The Contractors State License Board license classification necessary to bid on the contract (PCC § 3300).

c. Where to obtain bid packages.

d. Date, time, and place that bids must be received to be considered.

e. Notice that the successful bidder must enter into a contractual agreement in the form of a Standard Agreement STD 213

f. Prevailing Wages:

- The prevailing wage rates for each of the crafts or trade classifications involved in the proposed work to be contracted for must be set forth in the invitation for Bids (IFB) and in the contract itself.

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| Note: In lieu of specifying the rate of wages in the IFB and in the contract, the agency may include a statement that copies of the prevailing rate of per diem wages are on file at its principal office and shall be made available to any interested party upon request. |

- Obtain from the Department of Industrial Relations (www.dir.ca.gov) or any source authorized by the Department of Industrial Relations, the prevailing wage rates before requesting bids. (LC §§ 1770 and 1773.

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| Note: Public works contracts funded in whole or in part from state-issued bonds may have significant additional requirements for both contractors and agencies which include electronic filing of certified payroll records with, and fee payments to, the Department of Industrial Relations (DIR), as well as posting of a DIR-prescribed notice at the jobsite. (See LC §§ 1771 et seq. and related regulations. |

g. Date, time, and place of a pre-bid meeting and/or site inspection. Mandatory pre-bid meetings shall not occur fewer than five (5) calendar days after the first publication of the initial Notice to Bidders (PCC § 6610).

h. If the contract is estimated to exceed $ 5,000:

- Statement that the contract is subject to State contractor nondiscrimination and compliance requirements (2 CCR § 8201).

i. If the contract involves an expenditure in excess of $25,000:

- Necessity of providing a payment bond (STD 807) equal to 100% of the total amount payable under the contract per PCC § 7103.

4. Prepare instructions to bidders on the following:

a. Examination of bid documents and site.

b. Bids and bidders to comply with:

- Sealed bids.
- Bid form required to be used.
- Responsibility for ensuring that their sealed bid is received at the proper time and at the proper place as shown in the Notice to Contractors or addenda. Any bid received after the scheduled closing time for the receipt of bids will be returned unopened.
- DVBE participation requirements and incentive information.
- Drug-free workplace certification.
- Restrictions applying to State employees (PCC §§ 10410-10411 or GC § 87401, et seq.).
- Restrictions on employment of undocumented aliens (PCC § 6101).
- Antitrust claims.
- Corporate qualification to do business in California.
- Expatriate corporation certification.
- Review of Commercially Useful Function being performed by a certified small business or DVBE.
- Any other information regarding the bid.

5. Prepare the bid proposal form, allowing for:

   a. Bid amount.

   b. Small business preference request.

   c. Place for listing of subcontractors' names, business addresses, and contractor's license numbers of all subcontractors who will perform work, labor, or render services in an amount in excess of one-half of 1% of the prime contractor's total bid; and the portion of the work that each will perform. (PCC § 4101.)

   d. Place for listing of DVBEs' names, business addresses, license numbers, and percentages of all DVBEs who will perform work, labor, or render services who will be used by the prime contractor to fulfill disabled veteran business enterprise participation goals.

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| Note: A prime contractor whose bid is accepted may not substitute a subcontractor listed in the original bid unless the provisions of PCC §§ 4107 or 4107.5 apply and a hearing is held, if required. See also Mil. & Vets Code § 999.10. |

   e. General contractor's name, business address, Federal employer identification number, and contractor's license number, classification, and expiration date.

   f. Statement of Compliance, which may be printed on the bid proposal form in lieu of using a STD 19.

   g. Signature block, including the printed name of the authorized individual signing the bid, the authorized individual's title and telephone number, and the date.

   h. Whenever additive and deductive items are included in a bid, the bid document should specify the method to determine lowest bid.

6. Include all forms required to be submitted with the bid proposal:

   a. Drug-free Workplace Certification – STD 21;

   b. DVBE participation certifications;

   c. Labor Code Certification;

   d. Statement of Compliance – STD 19, if not included on the bid proposal form;

   e. Non-collusion affidavit (must be notarized) see Appendix (PCC § 7106);

   f. Small Business Preference and Certification Request (STD 811);

   g. Form of Guarantee if a guarantee provision is not included in the General Conditions; and

   h. Expatriate Corporation certification.

7. Prepare General Conditions, including:

   a. Insurance requirements; liability, workers' compensation, builders' risk, or other appropriate insurance;

   b. Bond requirements

- Payment Bond (Std 807) in a sum not less than 100% of the total amount payable if the contract involves an expenditure in excess of $25,000. (PCC § 7103.)
- Performance Bond if contract exceeds $10,000 and progress payments will be made – 100% of contract amount.

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| Note: Bonds must be issued by a California-admitted surety. (CCP § 995.311.) |

c. Prevailing wage rates (LC § 1770, et seq.).

d. National Labor Relations Certification.

e. Standard California Nondiscrimination Construction Contract Specifications STD 18.

f. Use of apprentices.

g. Guarantee, if a Form of Guarantee is not included.

h. "As Built" plans requirement.

i. Final inspection and acceptance.

j. Other conditions as required.

8. Include special provisions:

a. Contractor's license classification required.

b. Number of working days allowed.

c. Liquidated damages (if included, must provide that the contractor shall not be assessed liquidated damages when the delay in completing the project is caused by the failure of the State or the owner of a utility to provide for removal or relocation of the existing utility facilities.)

d. Progress payments.

e. Progress schedule.

f. Other conditions as required.

9. Prepare detailed specifications.

10. Prepare drawings (if necessary).

11. Prepare bid refusal form.

12. Prepare other provisions as required.

B. Advertise in the California State Contracts Register including:

1. Description of work to be done.

2. Bid opening date and time.

3. Contract duration.

4. Type of contractor's license required.

5. City and county in which work is to be done.

6. Contact name and phone number to obtain bid package.

C. Distribute bid packages to:

1. Prospective bidders.
2. DVBE assistance organizations.
3. Builders exchange nearest the work to be performed if contract is estimated to be more than $5,000.

D. Hold a pre-bid meeting and site inspection:

1. Hold a pre-bid meeting to explain all required forms, including the Drug-free Workplace Certification, DVBE participation and documentation, Labor Code Certification, and non-collusion affidavit (**which must be notarized**).
2. Hold a site inspection to allow all prospective contractors to see where the work is to be done.

E. Conduct the bid opening:

1. Verify that all required forms are completed and signed including:
   a. Bid proposal form.
   b. Drug-free Workplace Certification.
   c. DVBE participation (evaluate for compliance).
   d. Labor Code Certification.
   e. Non-collusion affidavit (**must be notarized**).
   f. Small Business Preference and Certification Request – STD 811.
   g. Expatriate Corporation certification.
2. Verify the status of the business as follows:
   a. Contractor's license and classification with the Contractor's License Board (PCC § 6100).
   b. Corporation status with the Secretary of State.
   c. Small business/DVBE status with the DGS/OSDS.
3. Return unopened any bids received after the due date.
4. Award the contract to the lowest responsible and responsive bidder.
5. Transmit reports:
   a. Within 10 working days of an award, send a completed STD 16 to the Department of Fair Employment and Housing if the contract award exceeds $5,000, including contracts with the University of California (2 CCR § 8117.5).
   b. Determine if a Form PWC 100 must be filed with DIR. Effective January 1, 2012, filing of the PWC 100 is done electronically, and fulfills the required public works project award notification to both the Division of Apprenticeship Standards (LC § 1773.3, replacing the former DAS-13 notification) and the Division of Labor Standards Enforcement, Compliance Monitoring Unit (8 CCR § 16451(a).) Form PWC 100 and additional information about filing requirements can be found on the DIR Compliance Monitoring Unit website.

F. Prepare the Standard Agreement – STD 213, including:

1. Statement of work;
2. Period of performance;
3. Cost and payment including:
    a. Total amount to be paid;
    b. When payment(s) will be made;
        - If making progress payments, include the provision that the State shall retain out of each payment an amount not to exceed 5% of the payment. (PCC § 7201)
    c. Address to which invoices and progress reports shall be mailed.
4. Payment Bond (if contract exceeds $25,000).
5. Performance Bond (if contract exceeds $10,000 and progress payments will be made).
6. Standard California Nondiscrimination Construction Contract Specifications for contracts exceeding $5,000 (STD 18).
7. National Labor Relations Board Certification, if not included in the General Conditions.
8. Project monitor's name and telephone number.
9. Contract amendments.
10. Resolution of disputes.
11. Final approval required before contract has force or effect.
12. Antitrust claims.
13. Americans with Disabilities Act.
14. Restrictions applying to State employees.
15. Prevailing wage rates.
16. Certificate of Insurance.
17. Audit language (if contract exceeds $10,000) and/or DVBE participation.
18. Instructions to bidders.
19. Bid proposal form.
20. Labor Code certification.
21. Non-collusion affidavit.
22. General conditions.
23. Special provisions.
24. Specifications.
25. Drawings.

G. Prepare the award letter and mail the documents to the contractor, requesting the following actions:

1. Standard Agreement – STD 213: Sign all four (4) copies.

2. Specifications and Drawings: Sign all four (4) sets.

3. Payment Bond – STD 807: Have bonding company execute two (2) copies (if contract exceeds $25,000).

4. Performance Bond: Have bonding company execute two (2) copies on standard bonding company forms (if contract exceeds $10,000 and progress payments will be made).

5. Certificate of Insurance: Have insurance agent execute for liability, workers' compensation, builders' risk and any other required insurance.

6. Asbestos notification letter if required.

7. Payee Data Record: Complete and return (sends to accounting office and retains one copy in the contract file).

H. Prepare the Contract Transmittal – STD 215 including:

1. Certificate of Insurance for liability, workers' compensation, builders' risk and any other required insurance.

2. Secretary of State corporate status check.

3. Contractor's License Board verification.

4. Small business verification (if applicable).

5. Drug-free workplace and other certificates.

6. DVBE participation package (if applicable).

7. California State Contracts Register advertisement.

8. List of contractors sent bid package.

9. All bids received.

10. Copy of bid package.

I. Route the Standard Agreement and transmittal package to the accounting office for encumbrance and to the approving authority.

J. When the approved contract is returned, send a letter to the contractor with its approved copy and distribute the remaining approved copies as necessary.

## 10.20 • PUBLIC WORKS CONTRACTS BETWEEN $270,000* AND $610,000*

**(Rev 11/12)**

A. Obtain approval from DGS/RESD on a Request for Project Undertaking by State Agency RESD FORM 23.

B. Include all requirements for contracts between $1,000 and $270,000*.

C. Place additional advertisements as follows:

1. Advertise the Notice to Contractors once a week for two (2) consecutive weeks in one local paper of general circulation published in the county where the work is to be done. Obtain an affidavit of publication (PCC § 10140).

2. Advertise the Notice to Contractors once a week for two (2) consecutive weeks as follows:

a. If the work is to be done in the counties of Imperial, Inyo, Kern, Los Angeles, Mono, Orange, Riverside, San Bernardino, San Diego, San Luis Obispo, Santa Barbara, Tulare, or Ventura, advertise in a trade paper of general circulation published in Los Angeles County. Obtain an affidavit of publication (PCC § 10140).

b. If the work is located in a county other than those listed in 2(a) above, advertise in a trade paper of general circulation published in San Francisco and provide a reasonable length of time between the publication of the advertisement and the date of submission of bids to give contractors sufficient time to prepare bids. Obtain an affidavit of publication (PCC § 10140).

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| Note: Until further notice, exemption is given for the direct placement of such advertisements for publication by the agency without prior submission to DGS. Invoices for the cost of advertisements may be submitted directly to the Controller with the claim for payment. |

D. Include in the instructions to bidders the requirement that the bid must be accompanied by one of the following forms of bidder's security: cash, a cashier's check, a certified check, or a bidder's bond executed by an admitted surety insurer and made payable to the State agency. The security must be in an amount equal to 10% of the amount bid. A bid must not be considered unless one of the forms of the bidder's security is enclosed with it (PCC § 10167).

E. Prepare the contract transmittal

1. Include all information shown in SCM 1, section 10.15(H).
2. Include an approved copy of form RESD Form 23.
3. Include the affidavits of publication for advertisements in both the local paper and the trade paper.

F. The departments of Boating and Waterways, CDCR, DGS, DOT, DWR, and the Military Department must publish progress payments made to the prime contractor in the California State Contracts Register. (PCC § 10262.3.)

## 10.25 • REQUIREMENTS OF PUBLIC WORKS CONTRACTS
**(Rev 11/12)**

A. Specifications

Ensure that whoever prepares the bid specifications is aware of the following requirements:

1. Work specifications

Prepare clear and complete written specifications for the work. The specifications must be adequate in detail to apprise the prospective bidder of the character and extent of the work to be done and to ensure that bids will be comparable and competitive. Room for speculation and conjecture must be reduced to a minimum.

2. Product specifications

Specifications may not be drafted in a manner that limits the bidding, directly or indirectly, to any one specific concern, or calling for a designated material, product, item, or service by a specific brand or trade name unless the specification is followed by the words "or equal." If the agency is aware of an

equal product manufactured in California, it must name such product in the specifications (PCC § 10129). Special rules applicable to roofing contracts are also contained in PCC §§ 3002 and 3004.

3. The specifications shall provide for a period of at least thirty-five (35) days after the award of the contract for submission of data substantiating a request of an "or equal" item. PCC § 10129 provides that if the agency makes a finding, included in the specifications, that a particular material, product, item, or service is designated by specific brand or trade name for any of the following purposes: 1) so that a field test or experiment may be made to determine the product's suitability for future use; 2) in order to match other products in use on a particular public improvement either completed or in the course of completion; 3) in order to obtain necessary item that is only available from one source; or 4) in order to respond to a declared emergency.

B. Prevailing Wages:

1. Obtain from the Department of Industrial Relations the prevailing wage rates before requesting bids. www.dir.ca.gov (LC §§ 1770 and 1773.)

2. The prevailing wage rates for each of the crafts or trade classifications involved in the proposed work to be contracted for must be set forth in the Invitation for Bids and in the contract itself.

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| Note: In lieu of specifying the rate of wages in the Invitation for Bids and in the contract, the agency may include a statement that copies of the prevailing rate of per diem wages are on file at its principal office and shall be made available to any interested party on request. LC § 1773.2. |

3. The general prevailing rates of wages may be obtained from the Department of Industrial Relations or any source authorized by the Department of Industrial Relations.

## 10.30 • PUBLIC WORKS CONTRACTS REQUIRED LANGUAGE
**(Rev 1/14)**

A. Instructions To Bidders

1. Employment of undocumented aliens

"No State agency or department, as defined in PCC § 10335.7, that is subject to this code, shall award a public works contract to a bidder or contractor, nor shall a bidder or contractor be eligible to bid for or receive a public works contract, who has, in the preceding five (5) years, been convicted of violating a State or Federal law regarding the employment of undocumented aliens PCC § 6101."

2. Antitrust claims

"The contractor offers and agrees and will require all of his other subcontractors and suppliers to agree to assign to the awarding body all rights, title, and interest in and to all causes of action they may have under Section 4 of the Clayton Act (15 USC § 15) or under the Cartwright Act (Chapter 2 [commencing with section 16700] of Part 2 of Division 7 of the Business and Professions Code) arising from purchases of goods, services, or materials pursuant to the public works contract or subcontract. The assignment made by the contractor and all additional assignments made by the subcontractors and suppliers shall be deemed to have been made and will become effective at the time the awarding

body tenders final payment to the contractor without further acknowledgment or the necessity of tendering to the awarding body any written assignments."
"If an awarding body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under GC §§ 4550 – 4554, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, on demand, recover from the public body any portion of the recovery, including treble damages, and attributable overcharges that were paid by the assignor but were not paid by the public body as a part of the bid price, less the expenses incurred in obtaining that portion of the recovery. On demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under GC §§ 4550 – 4554 if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action."

B. General Conditions

1. Prevailing Wage (See SCM 1, section 10.25 B.).

2. National Labor Relations Certification.

"By signing the contract, the contractor swears under penalty of perjury that no more than one final unappealable finding of contempt of court by a Federal court has been issued against the contractor within the immediately preceding two (2) year period because of the contractor's failure to comply with an order of a Federal court which orders the contractor to comply with an order of the National Labor Relations Board."

C. Other Required Contract Terms

1. Audit Language (For contracts in excess of $10,000 and/or when DVBE participation is required)

"The contractor agrees that the (awarding agency), or the Bureau of State Audits or its designated representative, shall have an absolute right of access to all of the contractor's records, files, documents, accounts, and financial affairs as deemed necessary for the purpose of conducting an audit to determine compliance with the terms and conditions of this contract. The contractor shall provide the auditor(s) with any relevant information requested without unnecessary delay and, on reasonable notice, permit access to its premises during normal business hours for the purpose of interviewing staff and inspecting and copying such books, records, accounts, and any other material as warranted to conduct the audit. The contractor further agrees to maintain such records for a period of three (3) years after final payment is made on this contract or three (3) years after resolution of all issues that may arise as a result of any litigation, claim, negotiation, or audit related to the contract, whichever is later. The State agrees to treat as confidential any proprietary information obtained as a part of any such audit."

2. Americans with Disabilities Act

"By signing this contract, the contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990 (42 USC § 12101 et seq.), which prohibits discrimination on the basis of disability, as well as with all applicable regulations and guidelines issued pursuant to the ADA."

3. Labor Code Certifications

a. "I am aware of the provisions of LC § 3700 which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of the work of this contract."

b. "It is hereby mutually agreed that the contractor shall forfeit to the State (enter amount from LC § 1775) dollars for each calendar day, or portion thereof, for each worker paid by him or her, or subcontractor under him or her, less than the prevailing wage so stipulated and in addition the contractor further agrees to pay to each worker the difference between the actual amount paid for each calendar day, or portion thereof, and the stipulated prevailing wage rate for the same. This provision shall not apply to properly, registered apprentices."

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| Note: LC § 1771.5 allows exemptions from the general prevailing rate under specific conditions for departments with Labor Compliance Programs. |

c. It is further agreed that the maximum hours a worker is to be employed is limited to eight hours a day and 40 hours a week and the contractor shall forfeit, as a penalty to the State, twenty-five dollars ($25) for each worker employed in the execution of the contract for each calendar day during which a worker is required or permitted to labor more than eight hours in any calendar day or more than 40 hours in any calendar week, in violation of LC §§ 1810-1815, inclusive.

d. Properly registered apprentices may be employed in the prosecution of the work. Every such apprentice shall be paid the standard wage paid to apprentices under the regulations of the craft or trade at which he or she is employed, and shall be employed only at the work of the craft or trade to which he or she is registered. The contractor and each subcontractor must comply with the requirements of LC § 1777.5 and any related regulations regarding the employment of registered apprentices.

e. Each contractor and subcontractor shall comply with the LC § 1776 regarding record keeping.

4. Other provisions from the State's current standard terms (GTCs) not covered elsewhere above, if and as applicable, such as:

a. Assignment

b. Audit

c. Indemnification

d. Disputes

e. Termination for Cause

f. Independent Contractor

g. Recycling Certification

h. Non-Discrimination Clause

i. Contractor Certification Clauses (CCCs)

1) Statement of Compliance
2) Drug-Free Workplace
3) Expatriate Corporations
4) Sweatfree Code of Conduct
5) Contractor Name Change
6) Corporate Qualifications to Do Business
7) Air or Water Pollution Violation
8) Payee Data Record Form Std 204

j. Timeliness

k. Compensation

l. Governing Law

m. Antitrust Claims

n. Child Support Compliance

o. Unenforceable Provision

p. Small Business and DVBE Reporting Requirements

# CHAPTER 10 – APPENDIX

## NONCOLLUSION AFFIDAVIT TO BE EXECUTED BY BIDDER AND SUBMITTED WITH BID FOR PUBLIC WORKS

STATE OF CALIFORNIA )
) SS
COUNTY OF _____ )

_____, being first duly sworn, deposes and

says that he or she is _____ of
(position or title)

_____
(the bidder)

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

Dated: _____ By: _____
(person signing for bidder)