SECTION B - GENERAL PROVISIONS

1. DEFINITIONS AND TERMS

STANDARD SPECIFICATIONS: Standard specifications shall mean the Standard Specifications of the State of California, Department of Transportation for Construction of Local Streets and Roads, dated July 2002.

Reference is made to the provisions in Section 1, "Definitions and Terms," of the Standard Specifications and the following provisions.

In case of conflict between the Standard Specifications and these Special Provisions, the Special Provisions shall take precedence over and be used in lieu of such conflicting portions.

Whenever in the Standard Specifications, or in any documents or instruments where these specifications govern, the following terms or pronouns in place of them are used, the intent and meaning shall be interpreted as follows:

STATE: The County of Butte, State of California

COUNTY: The County of Butte, State of California

BOARD OF SUPERVISORS: The Board of Supervisors of the County

DEPARTMENT: The Department of Public Works of the County

DIRECTOR: The Road Commissioner and Director of Public Works of the County

ENGINEER: The Road Commissioner and Director of Public Works of the County

Engineer shall also mean the Director of Public Works of the County or his authorized agent acting within the scope of his authority who shall act as the representative of the County during the terms of the contract.

LABORATORY: The established laboratory of the Department of Transportation of the State of California or laboratories authorized by the Engineer to test materials and work involved in the contract.

2. PROPOSAL REQUIREMENTS AND CONDITIONS

Reference is made to the provisions in Section 2 of the Standard Specifications, Section A of these Special Provisions, and the following provisions:

All proposals shall be made upon blank forms to be obtained from the Office of the Director of Public Works, 7 County Center Drive, Oroville, California 95965. Bids submitted on other than the official form will not be accepted.

2. PROPOSAL REQUIREMENTS AND CONDITIONS (Continued)

All bidders may be required to submit evidence to the County as to their ability, financial responsibility and experience in order to be eligible for consideration of their proposal.

Each proposal must be accompanied by a Proposal Guaranty of at least ten-percent (10%) of the total amount bid. The Guaranty may be in the form of a Bidder's Bond, a certified check or a cashier's check payable to the County of Butte. The bond form for the Bidder's Bond mentioned in the third paragraph of Section 2-1.07, "Proposal Guaranty," of the Standard Specifications may be found following the signature page of the proposal annexed hereto. The Proposed Guaranty of the successful bidder will be returned within fifteen (15) days after the contract is fully executed. Guaranties of bidders whose bids are considered but not selected will be returned to the bidders promptly after the execution of the contract.

3. AWARD AND EXECUTION OF CONTRACT

Reference is made to the provisions in Section 3 of the Standard Specifications and the following provisions:

The successful bidder, at his own expense, shall furnish a Labor and Materials Bond and a Faithful Performance Bond**, each in an amount of one hundred percent (100%)** of the total bid and in the form prescribed for use by the County.

Upon execution of the contract by the Contractor and the County, the Contractor shall furnish the County, (1) a certificate of consent to self-insure issued by the Director of Industrial Relations, or (2) a certificate of workman's compensation insurance issued by an admitted insurer, or (3) an exact copy or duplicate thereof certified by the Director of Industrial Relations or the insurer. A copy of the standard county contract, which will be required to be executed for this project, may be examined in the office of the Director of Public Works.

4. SCOPE OF WORK

Reference is made to the provisions in Section 4 of the Standard Specifications.

5. CONTROL OF WORK

Reference is made to the provisions in Section 5 of the Standard Specifications.

6. CONTROL OF MATERIALS

Reference is made to the provisions in Section 6 of the Standard Specifications.

7. LEGAL RELATIONS AND RESPONSIBILITY

Reference is made to the provisions in Section 7 of the Standard Specifications and the following provisions.

7. LEGAL RELATIONS AND RESPONSIBILITY (Continued)

In connection with laws to be observed and the responsibility of the Contractor, attention is directed to Section 7 of the Standard Specifications, and to the laws therein referred to, all of which are applicable to this contract. The provisions in Section 1777.5 of the Labor Code concerning employment of apprentices are applicable to this contract.

(1) Cooperation.--Attention is directed to Sections 7-1.14, "Cooperation," and 8-1.10, Utility and Non-Highway Facilities," of the Standard Specifications.

(2) Payment of Taxes.--The contract prices paid for the work shall include full compensation for all taxes which the Contractor is required to pay, whether imposed by Federal, State, or local government, including, without being limited to, federal excise tax. No tax exemption certificate nor any document designed to exempt the Contractor from payment of any tax will be furnished to the Contractor by the County of Butte, as to any tax on labor, services, materials, transportation or any other items furnished pursuant to this contract.

(3) Relief from Responsibility.--Whenever a section of surfacing, pavement, or deck of a structure has been completed and if ordered by the Engineer to be opened for use by public traffic as provided in Section 7-1.08 of the Standard Specifications, the Contractor will be relieved of any responsibility for injury or damage to said completed sections of the work resulting from use by public traffic, but not from injury or damage resulting from his operations or negligence, nor will he be relieved of responsibility for cleanup and finishing operations.

(4) Prevailing Wages.--The Wage Scale ascertained by the Board of Supervisors pursuant to Section 1770 of the Labor Code and applicable to the work to be done will be as specified in the Notice to Contractors of these documents.

In case it becomes necessary for the Contractor or any subcontractor to employ, on the work under this contract, any person in a trade or occupation (except executive, supervisory, administrative, clerical, or other non-manual workers as such) for which no minimum wage rate is herein specified, the Contractor shall immediately notify the Director of Public Works who will promptly thereafter determine the prevailing rate for such additional trade or occupation and shall furnish the Contractor with the minimum rate based thereon. The minimum rate thus furnished shall be applicable as a minimum for such trade or occupation from the time of the initial employment of the person affected and during the continuance of such employment.

8. INDEMNIFICATION

The Contractor agrees to indemnify and save harmless the County of Butte, its officers, officials, employees and volunteers from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, materialmen, laborers and any other person, firm or corporation furnishing or supplying work, services, materials or supplies in connection with the performance of the contract, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by the Contractor in the performance of this contract.

9. INSURANCE REQUIREMENTS

Contractor shall procure and maintain for the duration of this agreement, insurance against claims for injuries to persons or damages to property that may arise from, or be in connection with the performance of the Work hereunder by Contractor, Contractor's agents, representatives, employees, and subcontractors. At the very least, Contractor shall maintain the insurance coverage, limits of coverage and other requirements as described in Attachment I to this agreement.

ATTACHMENT 1

Insurance Requirements for County Public Work's Projects

A. Minimum Limits of Insurance

1.) General Liability:

a) A commercial general liability insurance policy of at least **$1,000,000** combined single limit per occurrence for bodily injury, personal injury, and property damage, including a general aggregate of at least **$2,000,000**, and at least a **$2,000,000** aggregate for products-completed operations. A minimum of 50% of each of the aggregate limits must remain available at all times. The Contractor or Contractor's insurance carrier shall notify County if incurred losses covered by the policy exceed 50% of the annual aggregate limit.

b) An umbrella or excess policy of at least **$5,000,000** for projects estimated to cost less than $25 million. For projects estimated to cost more than $25 million, an umbrella or excess policy of at least **$15 million**.

2.) Automobile Liability: At least **$1,000,000** combined single limit per accident for bodily injury and property damage for autos used by the Contractor to fulfill the requirements of this agreement. Coverage shall be provided for "Any Auto", Code 1 as listed on the Accord form Certificate of Insurance.

3.) Workers' Compensation and Employers Liability: Workers' Compensation insurance and Employer Liability insurance each with policy limits of at least **$1,000,000** per occurrence.

4.) Professional Liability (For professional services contracts only): This type of insurance is required only when the County is contracting for services of an accountant, attorney, physician, architect, engineer or similarly trained professionals. Professional Liability Insurance covering professional services shall be provided in an amount of at least $1,000,000 per occurrence. If coverage is written on a claim made basis, the Contractor agrees to purchase an extended reporting provision for at least two years.

9. INSURANCE REQUIREMENTS (Continued)

B. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retention must be declared on certificates of insurance and approved by the County. At the option of the County, either the insurer shall reduce or eliminate such deductibles or self-insured retention as respects the County, its officers, officials, employees and volunteers, or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claims administration and defense expenses.

C. Other Insurance Provisions

The following policies shall contain or be endorsed to contain the following provisions:

1.) General Liability and Automobile Liability Insurance policies shall be endorsed to state:

a.) The County, its officers, officials, employees and volunteers are to be covered as insured as respects: liability arising out of activities performed by or on behalf of the Contractor, including products and completed operations of the Contractor; premises owned, occupied or used by the Contractor; or automobiles owned, leased, hired or borrowed by the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the County, its officers, officials, employees or volunteers.

b.) The Contractor's insurance coverage shall be primary insurance as respects the County, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees or volunteers shall be in excess of the Contractor's insurance and shall not contribute with it.

c.) The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

2.) Cancellation of Policies:

Certificates of insurance shall state that the insuring agency agrees to endeavor to mail to County written notice 30 days before any of the insurance policies described herein are cancelled. Contractor agrees to notify County within two working days of any notice from an insuring agency that cancels, suspends, reduces in coverage or policy limits the insurance coverages described herein.

9. INSURANCE REQUIREMENTS (Continued)

D. Acceptability of Insurers

Insurance is to be placed with insurers who are licensed to sell insurance in the State of California and who possess a Best's rating of no less than A-: VII. If the Contractor's insurance carrier is not licensed to sell insurance in the State of California, then the carrier must possess a Best's rating of at least A: VIII. (For Best's ratings go to http://www.ambest.com/)

E. Verification of Coverage

Contractor shall furnish the County certificates of insurance and original endorsements effecting coverage required by this clause. All certificates of insurance and endorsements are to be received and approved by the County before work under the contract has begun. The County reserves the right to require complete, certified copies of all insurance policies required by this contract.

F. Subcontractors

Contractor shall include all subcontractors as insured under its policies or require all subcontractors to be insured under their own policies. If subcontractors are insured under their own policies, they shall be subject to all the requirements stated herein, including providing the County certificates of insurance and endorsements before beginning work under this contract.

END OF ATTACHMENT 1

10. PROSECUTION AND PROGRESS

Reference is made to the provisions in Section 8 of the Standard Specifications and the following provisions:

The Contractor shall complete the work called for under the contract in all parts and requirements within the number of days specified.

A working day is hereby defined as any day except Saturdays, Sundays and legal holidays and days on which the Contractor is specifically required by the special provisions to suspend construction operations; on which the Contractor is not prevented by inclement weather or conditions resulting immediately therefrom adverse to the current controlling operation or operations, as determined by the Engineer, from proceeding with at least 75 percent of the normal labor and equipment force engaged on such operation or operations for at least five hours toward completion of such operation or operations.

The current controlling operation or operations as used in the above paragraph is/are to be construed to include any feature of the work considered at the time by the Engineer and the Contractor, which if delayed, will delay the time of completion of the contract.

10. <u>PROSECUTION AND PROGRESS</u> (Continued)

Should the Contractor prepare to begin work at the regular starting time in the morning of any day on which inclement weather or the condition of the roadway prevents the work from beginning at the usual starting time, and the crew is dismissed as a result thereof and the Contractor does not proceed with at least 75 percent of the normal labor and equipment force engaged in the current controlling operation or operations for at least five hours toward completion of such operation or operations, the Contractor will not be charged for a working day whether or not conditions should change thereafter during said day and the major portion of the day could be considered to be suitable for such construction operations.

Upon the submission of satisfactory proof to the Engineer by the Contractor, shortage of material will be acceptable as grounds for increasing the number of working days. In order that such proof may be satisfactory and acceptable to the Engineer, there must be a showing that the Contractor has made every effort to obtain such materials from all known sources within reasonable reach of the proposed work. It shall be within the authority of the Engineer to decide whether or not an increase in the number of working days will be granted and his decision shall be final and conclusive on both parties to the contract, and if such increase is granted, the Contractor will not be assessed with liquidated damages nor the cost of engineering and inspection during such increase. Only the physical shortage of material will be considered under these provisions as a cause for extension of time and no consideration will be given to any claim that material could not be obtained at a reasonable, practical, or economical cost or price, unless it is shown to the satisfaction of the Engineer that such material could have been obtained only at exorbitant prices entirely out of line with current rates, taking into account the quantities involved and usual practices in obtaining such quantities.

Determination of each non-working day, except Saturdays, Sundays and legal holidays and days on which the Contractor is specifically required by the special provisions to suspend construction operations, shall be made and agreed upon during such day by conference between the Engineer and the Contractor and in the event of failure to agree, the Contractor will be allowed 15 days in which to file a written protest setting forth in what respects he differs from the Engineer, otherwise the decision of the Engineer shall be deemed to have been accepted by the Contractor as correct. The Engineer will furnish the Contractor a weekly statement showing the number of working days charged to the contract for the preceding week, the number of working days of time extensions being considered or approved, the number of working days originally specified for the completion of the contract and the number of working days remaining to complete the contract and the extended date for completion thereof.

(1) Time of Completion.--The Contractor shall begin work within 15 calendar days after receiving notice that the contract has been signed by the Director of Public Works or the person authorized by the Board of Supervisors to sign the contract and shall diligently prosecute the same to completion in the allotted time as set forth in Section A of these special provisions.

10. PROSECUTION AND PROGRESS (Continued)

(2) Liquidated Damages.--It is agreed by the parties to the contract that in case all the work called for under the contract in all parts and requirements is not finished or completed within the number of working days as set forth in these special provisions, damage will be sustained by the County of Butte, and that it is and will be difficult and impossible to ascertain and determine the actual damage which the County will sustain in the event of and by reason of such delay; and it is therefor agreed that the Contractor shall pay the County the sum of **Twenty Four Hundred Dollars ($2,400) per day** for each and every calendar day's delay in finishing the work in excess of the number of working days prescribed; and the Contractor agrees to pay said liquidated damages as herein provided, and in case the same is not paid, agrees that the County may deduct the amount thereof from any money due or that may become due the Contractor under this contract.

Neither the contract, nor any monies due or to become due under the contract, may be assigned by the Contractor without the prior consent and approval of the Board of Supervisors, nor in any event without the consent of the Contractor's surety or sureties unless such surety or sureties have waived their right to notice or assignment.

Unless otherwise notified in writing by the Engineer, the successful bidder shall furnish to the Engineer a progress schedule to show the time proposed for prosecution of the major divisions of work and his proposed sequence of operations.

11. MEASUREMENT AND PAYMENT

Reference is made to the provisions in Section 9 of the Standard Specifications and the following provisions:

(1) The County may withhold from any estimate due the Contractor, a sum sufficient to protect the County from loss on account of (a) defective work not remedied, (b) claims filed or reasonable evidence indicating probable filing of claims, (c) failure of the Contractor to make payments properly to subcontractors or for material or labor, (d) a reasonable doubt that the contract can be completed for the balance then unpaid, or (e) damage to another Contractor on the project, which amounts withheld will be paid upon removal of grounds for withholding payment.

The County Auditor will make payments of the balance not retained or withheld on the following regular day for payment of County bills.

(2) Partial Payment.--The Engineer, once each month, shall cause an estimate in writing to be made of the total amount of work done, conforming to the provisions in Section 9-1.06, "Partial Payments," of the Standard Specifications.

(3) Final Payment.--Upon satisfactory completion of the work, the Engineer shall recommend the acceptance of the work to the Board of Supervisors. Upon acceptance of the completed work by the Board of Supervisors, the said Board shall cause to be filed and recorded in the records of the County Recorder a Notice of Completion.

11. <u>MEASUREMENT AND PAYMENT</u> (Continued)

Thirty-five (35) days after the recording of the Notice of Completion the Contractor shall be entitled to the balance due for the completion and acceptance of the work, provided that all claims for labor and materials have been paid, and that no claim shall have been filed with the County based upon acts or omissions of the Contractor, and that no liens or withhold notices shall have been filed against said work or the property on which the work was done.

All prior partial estimates and payments shall be subject to correction in the final estimate and payment.

The final estimate shall be conclusive and binding against both parties to the contract on all questions relating to the performance of the contract and the amount of work done thereunder and compensation therefor.