County of Los Angeles
INTERNAL SERVICES DEPARTMENT
1100 North Eastern Avenue
Los Angeles, California 90063

SCOTT MINNIX
Director

"Trusted Partner and Provider of Choice"

Telephone: (323) 267-2101
FAX: (323) 264-7135

ADOPTED
BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

17 November 7, 2018

CELIA ZAVALA
EXECUTIVE OFFICER

November 07, 2018

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

APPROVAL OF MEMORANDUM OF UNDERSTANDING WITH THE REGENTS OF THE UNIVERSITY OF CALIFORNIA LAWRENCE BERKELEY NATIONAL LABORATORY (ALL SUPERVISORIAL DISTRICTS - 3 VOTES)

SUBJECT

This action is to approve a Memorandum of Understanding (MOU) with the Regents of the University of California Lawrence Berkeley National Laboratory (LBNL) to explore collaboration in the field of Energy Efficiency (EE) research, and to delegate authority to the Director of the Internal Services Department (ISD), or his designee, to sign the MOU and any associated agreement with LBNL on behalf of the County.

IT IS RECOMMENDED THAT THE BOARD:

1. Authorize the Director of ISD or his designee to negotiate and execute a MOU with LBNL, in a form similar to Attachment I, to collaborate with County in EE research, effective the date of your Board's approval through December 31, 2023.

2. Authorize the Director of ISD, or his designee, to execute any additional related agreements that may be required in order to effectuate the MOU with LNBL.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

ISD seeks to partner with LBNL to collaborate in the field of EE research. The County and LBNL would collaborate in but not limited to the following areas:

- Property Assessed Clean Energy Programs (PACE) program evaluation and design
- Assembly Bill 802 Benchmarking (Building Energy Efficiency)
- Building energy consumption modeling and analysis of energy efficiency measures
- Electric Vehicles as a grid load modeling
- Title 24 building code analysis
- Community level, city- and county- scale energy modeling and building stock analysis.
- Urban heat island mitigation technology including cool roofs, walls and pavements. Advanced facades, windows, and insulation analysis.
- Lighting and Heating Ventilating and Air Conditioning (HVAC) analysis, controls, commissioning, and energy information systems.
- Development of demand response (DR) technologies, automation and strategies and combined EE-DR measures.
- Financing for energy efficiency investments, assessment of investment risk and evaluation of performance contracts.

LBNL developed the open automated demand response communication system in use by all three of the California Investor Owned Utilities and required in Title 24. LBNL is a national lab providing research for the US Department of Energy Building Technologies Office and is uniquely qualified to conduct the aforementioned research.

The initial activities under the MOU will be funded by remaining American Recovery and Reinvestment (ARRA) funds from the Department of Energy (DOE). The proposed MOU will memorialize the County's role, flow down ARRA terms, conditions, and other requirements to LBNL, and identify additional responsibilities of LBNL.

Implementation of Strategic Plan Goals

These projects are consistent with the County's Strategic Plan Goal II, Strategy II.3 - Make Environmental Sustainability Our Daily Reality. Envision and implement a comprehensive and integrated approach to improving the environmental, economic, and social well-being of our communities so that they may thrive now and into the future. This action will allow the use of grant funds to augment the County's existing financial resources to fund the development of a countywide plan that will inform future projects, protect the environment, and improve the quality of life for its residents.

FISCAL IMPACT/FINANCING

DOE approved the repurposing of ARRA funds in the amount of $951,139 from an existing HVAC Loan Loss Reserve (LLR) Financial Pilot Program. As prime recipient, the County is responsible for overall program administration, which includes disbursement of all funding and reporting program status to the DOE. ISD will retain a portion of the ARRA grant's allowable administrative costs (up to $95k) to perform these functions. There will be no impact to the County General Fund. The funds have been included in FY 2018-19 budget. Requests for future fiscal year activities will be submitted with the annual budget request.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

Your Board's approval is required to authorize the Director of ISD to sign an MOU in substantially similar form to Attachment I.

On May 25, 2010, your Board authorized ISD to accept a $30 million an ARRA federal Energy Efficiency and Conservation Block Grant (Grant) on behalf of the County and its sub-recipients for the County's Better Buildings Program (BBP).

The Grant term was from June 3, 2010 through June 2, 2013. During the Grant term the County's BBP piloted several programs in support of the statewide Energy Upgrade California initiative. Together, the pilot programs aimed to identify and address market barriers and provide lessons learned for future energy efficiency program planning and implementation.

The DOE authorized ISD to repurpose the remaining funds into two different programs (1) HVAC LLR Financial Pilot Program and (2) Contractor Co-op Marketing Program. The HVAC LLR Financial Pilot Program provided homeowners to finance and install energy efficient HVAC units in their homes to reduce energy consumption, make their home more comfortable and healthier. The Co-op Marketing Program helped promote and increase the uptake of the County's Residential Energy Retrofit Programs. Both programs received slower than desired uptake and in July of 2017 ISD submitted a repurposing proposal to the DOE for the remainder of the funds.

On November 20, 2017 the DOE notified the County of their approval to repurpose $951,139 to implement a Multi-Sector Energy Data and Efficiency Optimization Program which will be designed and implemented under the proposed MOU.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

Approval of these actions will facilitate widespread implementation of EE projects and studies that will reduce greenhouse gases, reduce total energy use and improve energy efficiency throughout the County in a cohesive and comprehensive manner.

This will help the State achieve the goal of creating substantial, sustainable, and measurable energy savings, as well as new jobs, and other economic stimulus benefits.

CONCLUSION

The Executive Office of the Board of Supervisors is requested to return one stamped copy of the approved Board letter to the Director of ISD.

Respectfully submitted,

SCOTT MINNIX
Director

SM:SH:ML:ar

Enclosures

c: Executive Office, Board of Supervisors
Chief Executive Office
County Office of Sustainability
County Counsel

Attachment 1

Memorandum of Understanding

Between

The Regents of the University of California, as Management and Operating Contractor for Lawrence Berkeley National Laboratory

and

Los Angeles County

Concerning Collaboration in the Field of Energy Efficiency Research

This Memorandum of Understanding (MOU) is between The Regents of the University of California (The Regents), in its capacity as manager and operator of Lawrence Berkeley National Laboratory (LBNL), One Cyclotron Road, Mailstop 90R3036, Berkeley, CA 94720, and Los Angeles County.

LBNL is a U.S. Department of Energy (DOE) National Laboratory managed and operated by The Regents pursuant to DOE Contract No. DE-AC02-05CH11231. Los Angeles County is one of the nation's largest counties with the largest population of any county in the nation – approximately 10 million residents who account for approximately 27 percent of California's population. The Regents and County are collectively herein referred to as the "Participants" or individually as a "Participant."

1. Objective

The Participants intend to explore potential future collaboration in the field of Energy Efficiency Research.

2. Proposed Areas of Collaboration

The Participants intend to collaborate in the following areas:

- Property Assessed Clean Energy Programs (PACE)
  - Financing program evaluation and design
- Assembly Bill 802 Benchmarking (Building Energy Efficiency)
- Building energy consumption modeling and analysis of energy efficiency measures
- Electric Vehicles as a grid load modeling
- Title 24 building code analysis
- Community level, city- and county- scale energy modeling and building stock analysis.
- Urban heat island mitigation technology including cool roofs, walls and pavements. Advanced facades, windows, and insulation analysis.
- Lighting and HVAC analysis, controls, commissioning, and energy information systems.

- Development of demand response (DR) technologies, automation and strategies and combined EE-DR measures.
- Financing for energy efficiency investments, assessment of investment risk and evaluation of performance contracts.
- Community level, city- and county- scale energy modeling and building stock analysis.
- Urban heat island mitigation technology including cool roofs, walls and pavements. Advanced facades, windows, and insulation analysis.
- Lighting and HVAC analysis, controls, commissioning, and energy information systems.
- Development of demand response (DR) technologies, automation and strategies and combined EE-DR measures.
- Financing for energy efficiency investments, assessment of investment risk and evaluation of performance contracts.

The scope of the above activities and cooperation may be changed or extended to other areas by mutual written consent of the Participants.

3. **Proposed Forms of Collaboration**
The Participants expect to collaborate through mutual visits, the exchange of publicly-available information, exchanges of researchers and experts, training, and planning for potential future joint research, with any future collaborative research to be undertaken only pursuant to an appropriate written agreement therefor.

4. **Proposed Mechanisms of Collaboration**
   A. To administer the implementation of this MOU, each Participant should designate one or more principal coordinators to be in charge of the collaboration, through whom all requests and plans of that Participant should be made.
   B. The principal coordinators may hold meetings when necessary to discuss matters related to collaboration under this MOU.
   C. The principal coordinator for The Regents is Ramamoorthy Ramesh, Associate Laboratory Director for Energy Technologies. The principal coordinator for Los Angeles County is Minh Le, General Manager, Energy and Environmental Services.
   D. If a Participant wishes to change a designated principal coordinator, the Participant should provide written notice to the other Participant.

5. **Commencement, Modification and Discontinuation**
   A. Cooperative activities under this MOU may commence upon signature by the Participants and continue for a five (5) year period, unless discontinued in accordance with Paragraph B of this Section, or extended in accordance with Paragraph C of this Section.
   B. The Participants may discontinue this MOU at any time by mutual written consent.

Alternatively, a Participant that wishes to discontinue its participation in this MOU should endeavor to provide at least thirty (30) days prior written notice to the other Participant.

C. This MOU may be modified or cooperative activities hereunder extended for additional periods by mutual written consent of the Participants.

6. Exchange of Information

The Participants do not anticipate the exchange of business-confidential information or the creation of intellectual property. If the Participants determine that a particular activity may lead to the exchange of business-confidential information or the creation of intellectual property, they should consult with each other and enter into an appropriate written agreement therefor.

7. General Provisions

A. Each Participant should conduct the activities contemplated by this MOU in accordance with all applicable laws, regulations and other requirements to which it is subject, including by way of illustration and not by way of limitation: export control laws; environmental, health and safety laws and regulations; and international agreements to which its Government is party.

B. This MOU does not create any legally binding obligations between the Participants.

C. The conduct of cooperative activities contemplated by this MOU is subject to the availability of funding, personnel, and other resources.

D. Each Participant is to be responsible for the costs it incurs in participating in cooperative activities under this MOU.

Signed in duplicate.

FOR THE REGENTS OF THE UNIVERSITY OF CALIFORNIA	FOR Los Angeles County
By:	By:
Name: Michael Witherell	Name: xx
Title: Director, Lawrence Berkeley National Laboratory	Title: xx
Date:	Date:

Sub-Recipient Agreement

This Agreement is made and entered into as of the Effective Date by and between the County of Los Angeles, a political subdivision of the State of California ("County") and _ The Regents of the University of California (The Regents), in its capacity as manager and operator of Lawrence Berkeley National Laboratory ("sub-recipient).

RECITALS

R1. On December 14, 2009, the County submitted grant application number DE-FOA-0000148 (the "Grant Application") to the United States Department of Energy ("DOE"), seeking Energy Efficiency and Conservation Block Grant funds under the American Recovery and Reinvestment Act for a state-wide *Better Buildings* Program;

R2. On April 21, 2010, DOE notified the County of its offer and intent to award $30 million in ARRA block grant funds for *Better Buildings Program* (the "DOE Award");

R3. On May 25, 2010, the County accepted the DOE Award, in part as a direct recipient and in part as the lead agency/administrator on behalf of all *Better Buildings Program* sub-recipients. The DOE Award allocates approximately $14 million for the County, and the remainder for disbursement by the County to various sub-recipients;

R4. On October 21, 2014 the DOE authorized ISD to repurpose the remaining funds into Heating Ventilating and Air Conditioning (HVAC) Loan Loss Reserve (LLR) Financial Pilot Program;

R5 On June 6, 2016 the DOE authorized ISD to repurpose funds from the HVAC LLR Financial Program for a Contractor Co-op Marketing Program;

R6 On November 20, 2017 the DOE notified the County of their approval to repurpose the remaining funds of the HVAC LLR Financial Program to implement a Multi-Sector Energy Data and Efficiency Optimization Program ; and

R7. The County and this Sub-Recipient desire to establish and/or acknowledge the governing rules, regulations, terms and conditions for Sub-Recipient's participation in *Better Buildings Program* and the DOE Award.

NOW THEREFORE, based upon the foregoing recitals, the County and Sub-Recipient further agree as follows:

1.0 APPLICABLE DOCUMENTS

1.1 This base document, along with the DOE Award documents listed below, collectively form, and are referred to as, the “Sub-Recipient Agreement.” The following are attached hereto and incorporated herein by this reference:

1.1.2 Exhibit 1 Statement of Work

1.1.3 Exhibit 2 ARRA Terms and Conditions

2.0 DEFINITIONS

The terms and phrases in this Section 2.0, in quotes and with initial letter(s) capitalized, shall have the meanings whenever used in this base document.

2.1 “Award Agreement” is the agreement between DOE and County for the DOE Award, and consists of the documents itemized at Section 2 (Award Agreement Terms and Conditions) of Exhibit 4 (Special Terms and Conditions).

2.2 “DOE Award” is defined in recital R4.

2.3 “Holdback” is defined in section 4.3

2.4 “Sub-Award Sum” is defined in section 4.1.

3.0 TERM OF AGREEMENT

This Agreement shall commence as of 20189/ (the “Effective Date”) and continue for three (3) years, or until DOE finds and certifies that Sub-Recipient is in full compliance with the DOE Award requirements and issues final award approval, whichever is later.

4.0 MAXIMUM SUB-AWARD SUM

4.1 The maximum sub-award sum to be funded by the DOE and disbursed through the County to Sub-Recipient shall be ________________dollars (US$ __________) (the “Maximum Sub-Award Sum”).

4.2 The Maximum Sub-Award Sum is inclusive of Sub-Recipient’s administrative costs and expenses, the aggregate of which shall not exceed ten percent (10%) of the Maximum Sub-Award Sum.

4.3 Sub-Recipient understands and agrees that the County may retain a holdback from disbursement of up to ten percent (10%) of the Maximum Sub-Award Sum as security against disallowances pending final award approval by DOE (the “Holdback”).

5.0 COUNTY OBLIGATIONS

County shall administer the *Better Buildings* program and disburse DOE Award funds as required or permitted by the Award Agreement. Notwithstanding the foregoing, the County is not obligated to disburse any funds to Sub-Recipient unless and until such are authorized and disbursed from DOE to County.

6.0 SUB-RECIPIENT WARRANTIES & REPRESENTATIONS

Sub-Recipient warrants and represents as follows:

6.1 Sub-Recipient is, and at all times shall continue to be, in full compliance with the terms and conditions in the Award Agreement. Sub-Recipient understands and agrees that for purposes of the foregoing, any requirements imposed upon County as "Recipient[s]" in the Award Agreement are hereby passed-through and adopted as obligations of Sub-Recipient to the maximum extent allowable by law.

6.1.1 Without limiting the foregoing 6.1, Sub-Recipient shall strictly comply with the scope of any and all authorizations, limitations, exclusions, and/or exceptions for use of DOE Award funds; and

6.1.2 Without limiting the foregoing 6.1, Sub-Recipient shall submit timely reports to County and/or DOE as required by DOE, including but not limited to progress reports (monthly, quarterly, annual, and as required), special status reports, financial reporting, and property certification.

6.2 Sub-Recipient shall not cause the County to be in violation of the Award Agreement, whether by act or omission.

6.3 Sub-Recipient shall comply with all applicable Federal, State, and local laws, rules, regulations, ordinances, and directives, now existing and as such may change from time-to-time. Any such laws, rules, regulations, ordinances, and directives required thereby to be included in this Sub-Recipient Agreement are incorporated herein by reference.

7.0 INDEMNIFICATION & INELIGIBLE CLAIMS

7.1 Notwithstanding any provision to the contrary, whether expressly or by implication, Sub-Recipient agrees to indemnify, defend, and hold harmless the County, its Special Districts, elected and appointed officers, employees, and agents from and against any and all liability resulting from Sub-Recipient's act(s) and/or omission(s) arising from and/or relating to the DOE Award and/or this Agreement, and as such would be imposed in the absence of *Government Code* section 895.2.

7.2 Without limiting the scope of section 9.1, such liability includes but is not limited to the following: any funding disallowance; audits; demands; claims; actions; liabilities; damages; fines; fees, costs, and expenses, including attorney, auditor, and/or expert witness fees.

7.3 Sub-Recipient understands and agrees that it is solely responsible for any and all its amounts found by the DOE to be ineligible under the Award Agreement. Immediately upon request by DOE or County, the Sub-Recipient shall return any funds that have been disbursed to the extent that their use has been disallowed.

8.0 TERMINATION FOR CONVENIENCE

The County may terminate this Sub-Recipient Agreement, in whole or in part, when the County, in its sole discretion, deems it to be in its best interest.

9.0 TERMINATION FOR DEFAULT

9.1 The County may, by written notice to Sub-Recipient, terminate this Sub-Recipient Agreement, in whole or in part, as follows:

9.1.1 Upon instruction and/or demand from the DOE;

9.1.2 If Sub-Recipient materially breaches this Sub-Recipient Agreement;

9.1.3 If Sub-Recipient fails to timely or satisfactorily perform any obligation under this Sub-Recipient Agreement and fails to cure; or

9.1.4 If Sub-Recipient fails to demonstrate a high probability of timely fulfillment of its obligations under this Sub-Recipient Agreement and fails to cure.

9.2 If the County issues written notice under sections 9.1.3 or 9.1.4, Sub-Recipient must cure or demonstrate convincing progress toward a cure within five (5) calendar days (or such longer period as the County may authorize in writing) after receipt of written notice from the County.

9.3 The County's Principal Investigator is authorized to make and service any notice under sections 8.0 and/or 9.1.

9.4 The rights and remedies of the County provided in this Section 9.0 are not exclusive, and are in addition to any other rights and remedies provided under this Sub-Recipient Agreement and/or by law.

10.0 NOTICES & ADMINISTRATIVE CONTACTS

10.1 All notices or notifications under this Sub-Recipient Agreement shall be in writing addressed to the persons set forth in this section 10.0

10.2 All notices or notifications to the County shall be sent to:

Minh Le, Principal Investigator
Los Angeles County – Internal Services Department
1100 N. Eastern Avenue, Executive Suite 200
Los Angeles, CA 90063-3200
Mle@isd.lacounty.gov

10.3 All notices or notifications to the Sub-Recipient shall be sent to:

____
____
____
____
____

11.0 AMENDMENTS & CHANGES

This Sub-Recipient Agreement may be changed only by a written amendment duly signed by the County and Sub-Recipient. Notwithstanding the foregoing, any changes to the Award Agreement imposed by DOE, as well as any terms and conditions of the DOE Award program, shall be effective and binding upon Sub-Recipient immediately and without any amendment hereto.

12.0 ASSIGNMENT AND DELEGATION

Sub-Recipient shall not assign its rights or delegate its duties under this Sub-Recipient Agreement. Any attempted assignment or delegation shall be null and void, and constitute a material breach of this Sub-Recipient Agreement.

13.0 GOVERNING LAW AND VENUE

This Agreement shall be governed by, and construed in accordance with, the substantive and procedural laws of the State of California. Sub-Recipient further agrees and consents that the venue of any action brought between Sub-Recipient and County shall be exclusively in Los Angeles.

14.0 VALIDITY AND SEVERABILITY

If any provision of this Sub-Recipient Agreement or the application thereof to any person or circumstance is held invalid, the remainder of this Sub-Recipient Agreement and the application of such provision to other persons or circumstances shall not be affected thereby.

15.0 NO WAIVER

No waiver by the County of any event of breach and/or breach of any provision of this Sub-Recipient Agreement shall constitute a waiver of any other event of breach and/or breach. The County's non-enforce at any time, or from time to time, of any provision of this Sub-Recipient Agreement shall not be construed as a waiver thereof.

16.0 RECORD RETENTION AND INSPECTION/AUDIT SETTLEMENT

16.1 Sub-Recipient shall maintain accurate and complete financial records of its activities and operations relating to this Sub-Recipient Agreement in accordance with the Award Agreement and generally accepted accounting principles.

16.2 Sub-Recipient agrees that the County, or its authorized representatives, shall have access to and the right to examine, audit, excerpt, copy, or transcribe any pertinent transaction, activity, or record relating to this Sub-Recipient Agreement. All such material, including, but not limited to, all financial records, bank statements, cancelled checks or other proof of payment, timecards, sign-in/sign-out sheets and other time and employment records, and proprietary data and information, shall be kept and maintained by the Sub-Recipient and shall be made available to the County during the term of this Sub-Recipient Agreement and for a period of five (5) years thereafter unless the County's written permission is given to dispose of any such material prior to such time.

16.3 All such material shall be maintained by the Sub-Recipient at a location in Los Angeles County or shall provide all materials specified by the County to a location to be determined by the County. Sub-Recipient shall bear its own costs and expenses in this regard.

16.4 If an audit of the Sub-Recipient is conducted specifically regarding this Sub-Recipient Agreement by any Federal or State auditor, or by any auditor or accountant employed by the Sub-Recipient or otherwise, then the Sub-Recipient shall file a copy of such audit report with the County's Auditor-Controller within thirty (30) days of the Sub-Recipient's receipt thereof, unless otherwise provided by applicable Federal or State law or under this Sub-Recipient Agreement.

16.5 Failure of Sub-Recipient to comply with this Section 16.0 shall constitute a material breach of this Sub-Recipient Agreement, upon which the County may terminate or suspend under section 9.0 (Termination for Default).

///
///
///

17.0 AUTHORIZATION WARRANTY

Sub-Recipient represents and warrants that the person executing this Sub-Recipient Agreement on its behalf is an authorized agent who has actual authority to bind Sub-Recipient to each and every term, condition, and obligation herein.

END OF BASE DOCUMENT
SIGNATURE PAGE TO FOLLOW

Sub-Recipient Agreement

* * * * *

Authorized Signatures

IN WITNESS WHEREO, Sub-Recipient has duly executed this Agreement, or caused it to be duly executed, and the County of Los Angeles, by order of its Board of Supervisors, has caused this Contract to be duly executed on its behalf.

SUB-RECIPIENT:

____

By ____________________________________
Name

____
Title

COUNTY OF LOS ANGELES

By____________________________________
Scott Minnix,
Director – Internal Services Department

APPROVED AS TO FORM:
County Counsel

By______________________________
Principal Deputy County Counsel

EXHIBIT 1 – STATEMENT OF WORK (FINAL DRAFT WILL BE INCLUDED)

Exhibit 2 – ARRA TERMS AND CONDITIONS

Special Provisions Governing Work Funded Under the American Recovery and Reinvestment Act of 2009

A. ARRA-FUNDED PROJECT

Funding for this Project has been provided through the American Recovery and Reinvestment Act of 2009 (ARRA), Pub. L. 111-5, and is dependent on a Federal agreement (DE-EE0000905) authorized by the Energy Efficiency Block Grant (EECBG), CFDA Number 81.128. The Contractor and its subcontractors and suppliers are subject to audit by appropriate Federal and State of California (State) entities. The County has the right to cancel, terminate, or suspend this Work Order if the Contractor or any subcontractor and/or its supplier(s) fail to comply with the reporting and operational requirements contained in this Work Order.

B. ACCESS TO RECORDS

With respect to each Work Order awarded utilizing at least some of the funds appropriated or otherwise made available by ARRA, any representative of an appropriate inspector general appointed under section 3 or 8G of the Inspector General Act of 1988 (5 U.S.C. App.) or of the Comptroller General is authorized;

1) To examine any records of the Contractor, any of its subcontractor(s) or vendor(s); and

2) To interview any officer or employee of the Contractor, subcontractor, vendor, funds used on this Work Order.

C. PROTECTING CONTRACTOR WHISTLEBLOWERS

The Contractor agrees that its subcontractors and vendors shall comply with Section 1553 of ARRA, which prohibits all non-Federal employers from discharging, demoting or otherwise discriminating against an employee for disclosures by the employee that the employee reasonably believes are evidence of: (1) gross mismanagement of a contract relating to ARRA funds; (2) a gross waste of ARRA funds; (3) a substantial and specific danger to public health or safety related to the implementation or use of ARRA funds; (4) an abuse of authority related to implementation or use of ARRA funds; or (5) a violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) awarded or issued relating to ARRA funds.

The Contractor agrees that it and its subcontractors and vendors shall post notice of the rights and remedies available to employees under Section 1553 of Title XV of Division A of ARRA. The requirements of Section 1553 of ARRA are

summarized below. They include, but are not limited to: Prohibition on Reprisals: An employee of any non-Federal employer receiving covered funds under ARRA may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing, including a disclosure made in the ordinary course of an employee's duties, to the Accountability and Transparency Board, an inspector general, the Comptroller General, a member of Congress, a State or Federal regulatory or law enforcement agency, a person with supervisory authority over the employee (or other person working for the employer who has the authority to investigate, discover or terminate misconduct), a court or grand jury, the head of a Federal agency, or their representatives, information that the employee believes is evidence of:

- Gross management of an agency contract or grant relating to covered funds;
- A gross waste of covered funds;
- A substantial and specific danger to public health or safety related to the implementation or use of covered funds;
- An abuse of authority related to the implementation or use of covered funds; or,
- A violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) or grant, awarded or issued relating to covered funds.

Requirement to Post Notice of Rights and Remedies: Any employer receiving covered funds under ARRA shall post notice of the rights and remedies as required therein. (Refer to section 1553 of ARRA located at www.recovery.gov, for specific requirements of this section and prescribed language for the notices.)

G. NOT USED

H. NOT USED

I. NOT USED

J. NOT USED

K. REQUIRED USE OF AMERICAN IRON, STEEL, AND MANUFACTURED GOODS (COVERED UNDER INTERNATIONAL AGREEMENTS) — SECTION 1605 OF ARRA

The Contractor agrees that in accordance with ARRA, Section 1605, the Contractor, its subcontractors or vendors will use all of the iron, steel and manufactured goods used in this Work Order are produced in the United States in a manner consistent with United States obligations under international agreements. The Contractor understands that this requirement may only be waived by the applicable Federal agency in limited situations as set out in ARRA, Section 1605.

1) **Definitions**

a) Manufactured good means a good brought to the project site for incorporation into the building or work that has been,

(i) Processed into a specific form and shape; or

(ii) Combined with other raw material to create a material that has different properties than the properties of the individual raw materials.

b) Steel means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.

2) Domestic preference

a) This Project implements Section 1605 of the American Recovery and Reinvestment Act of 2009 (Recovery Act) (Pub. L. 111-5), by requiring that all iron, steel, and manufactured goods used in the project are produced in the United States except as provided in paragraph (b)(3) and (b)(4) of this section and condition.

b) This requirement does not apply to the material listed by the Federal Government as follows:
None.

c) The award official may add other iron, steel, and/or manufactured goods to the list in paragraph (b)(2) of this section and condition if the Federal Government determines that;

(i) The cost of the domestic iron, steel, and/or manufactured goods would be unreasonable. The cost of domestic iron, steel, or manufactured goods used in the project is unreasonable when the cumulative cost of such material will increase the cost of the overall project by more than 25 percent;

(ii) The iron, steel, and/or manufactured good is not produced, or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

(iii) The application of the restriction of section 1605 of the Recovery Act would be inconsistent with the public interest.

3) Request for determination of inapplicability of Section 1605 of the Recovery Act.

a) (i) Any recipient request to use foreign iron, steel, and/or manufactured goods in accordance with paragraph (b)(3) of this section shall include adequate information for Federal Government evaluation of the request, including—

(A) A description of the foreign and domestic iron, steel, and/or manufactured goods;

(B) Unit of measure;

(C) Quantity;

(D) Cost;

(E) Time of delivery or availability;

(F) Location of the project;

(G) Name and address of the proposed supplier; and

(H) A detailed justification of the reason for use of foreign iron, steel, and/or manufactured goods cited in accordance with paragraph (b)(3) of this section.

(ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed cost comparison table in the format in paragraph (d) of this section.

(iii) The cost of iron, steel, and/or manufactured goods material shall include all delivery costs to the construction site and any applicable duty.

(iv) Any Contractor request for a determination submitted after Recovery Act funds have been obligated for a project for construction, alteration, maintenance, or repair shall explain why the Contractor could not reasonably foresee the need for such determination and could not have requested the determination before the funds were obligated. If the recipient does not submit a satisfactory explanation, the award official need not make a determination.

b) If the Federal Government determines after funds have been obligated for a project for construction, alteration, maintenance, or repair that an exception to section 1605 of the Recovery Act applies, County will amend the award to allow use of the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is nonavailability or public interest, the amended award shall reflect adjustment of the award amount, redistribution of budgeted funds, and/or other actions taken to cover costs associated with acquiring or using the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is the unreasonable cost of the domestic iron, steel, or manufactured goods, the award official shall adjust the award amount or redistribute budgeted funds by at least the differential established in 2 CFR 176.110(a).

c) Unless the Federal Government determines that an exception to section 1605 of the Recovery Act applies, use of foreign iron, steel, and/or manufactured goods is noncompliant with section 1605 of the American Recovery and Reinvestment Act.

4) **Data.** To permit evaluation of requests under paragraph (b) of this section based on unreasonable cost, the Contractor shall include the following information and any applicable supporting data based on the survey of suppliers:

Foreign and Domestic Items Cost Comparison

Description Unit of measure Quantity Cost (dollars)*

Item 1:

Foreign steel, iron, or manufactured good _____ _____ _____

Domestic steel, iron, or manufactured good _____ _____ _____

Item 2:

Foreign steel, iron, or manufactured good _____ _____ _____

Domestic steel, iron, or manufactured good _____ _____ _____

[List name, address, telephone number, email address, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.]

[Include other applicable supporting information.]

[*Include all delivery costs to the construction site.]

L. WAGE RATE REQUIREMENTS UNDER SECTION 1606 OF ARRA

In accordance with ARRA Section 1606, the Contractor assures that it and its subcontractors and vendors shall fully comply with said Section and notwithstanding any other provision of law and in a manner consistent with other provisions of ARRA, all laborers and mechanics employed by contractors and subcontractors or vendors on projects funded directly by or assisted in whole or in part by and through the Federal government pursuant to ARRA shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the United States Secretary of Labor in accordance with Subchapter IV of Chapter 31 of Title 40, United States Code (Davis-Bacon Act). It is understood that the Secretary of Labor has the authority and functions set forth in Reorganization Plan Numbered 14 or 1950 (64 Stat. 1267; 5 U.S.C. App.) and Section 3145 of Title 40, United States Code.

1) Section 1606 of ARRA requires that all laborers and mechanics employed by contractors and subcontractors or vendors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to ARRA shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code.

   Pursuant to Reorganization Plan No. 14 and the Copeland Act, 40 U.S.C. 3145, the Department of Labor has issued regulations at 29 CFR parts 1, 3, and 5 to implement the Davis-Bacon and related Acts. Regulations in 29 CFR 5.5 instruct agencies concerning application of the standard Davis-Bacon contract clauses set forth in that section. Federal agencies providing grants, cooperative agreements, and loans under ARRA shall ensure that the standard Davis-Bacon contract clauses found in 29 CFR 5.5(a) are

incorporated in any resultant covered contracts that are in excess of $2,000 for construction, alteration or repair (including painting and decorating).

M. DAVIS-BACON ACT AND CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

1) Definitions. For purposes of this Section, Davis Bacon Act and Contract Work Hours and Safety Standards Act, the following definitions are applicable:

a) Award means any grant, cooperative agreement or technology investment agreement made with Recovery Act funds by the Department of Energy (DOE) to a Recipient. Such Award must require compliance with the labor standards clauses and wage rate requirements of the Davis-Bacon Act (DBA) for work performed by all laborers and mechanics employed by Recipients (other than a unit of State or local government whose own employees perform the construction) Subrecipients, Contractors and subcontractors.

b) Contractor means an entity that enters into a Contract. For purposes of these clauses, Contractor shall include (as applicable) prime contractors, Recipients, Subrecipients, and Recipients' or Subrecipients' contractors, subcontractors, and lower-tier subcontractors. "Contractor" does not mean a unit of State or local government where construction is performed by its own employees.

c) Contract means a contract executed by a Recipient, Subrecipient, prime contractor or any tier subcontractor for construction, alteration, or repair. It may also mean (as applicable) (i) financial assistance instruments such as grants, cooperative agreements, technology investment agreements, and loans; and, (ii) Sub awards, contracts and subcontracts issued under financial assistance agreements. "Contract" does not mean a financial assistance instrument with a unit of State or local government where construction is performed by its own employees.

d) Contracting Officer means the DOE official authorized to execute an Award on behalf of DOE and who is responsible for the business management and non-program aspects of the financial assistance process.

e) Recipient means any entity other than an individual that receives an Award of Federal funds in the form of a grant, cooperative agreement or technology investment agreement directly from the Federal Government and is financially accountable for the use of any DOE funds or property, and is legally responsible for carrying out the terms and conditions of the program and Award.

f) Subaward means an award of financial assistance in the form of money, or property in lieu of money, made under an award by a Recipient to an eligible Subrecipient or by a Subrecipient to a lower- tier subrecipient. The term includes financial assistance when provided by any legal agreement, even if the agreement is called a contract, but does not include the Recipient's procurement of goods and services to carry out the program nor does it include any form of assistance which is excluded from the definition of "Award" above.

g) Subrecipient means a non-Federal entity that expends Federal funds received from a Recipient to carry out a Federal program, but does not include an individual that is a beneficiary of such a program.

2) Davis-Bacon Act

a) Minimum wages.

(i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics.

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

poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

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

i. The work to be performed by the classification requested is not performed by a classification in the wage determination; and
ii. The classification is utilized in the area by the construction industry; and
iii. The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(b) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the Contracting Officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the Contracting Officer to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advice the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

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

(d) The wage rate (including fringe benefits where appropriate) determined pursuant to 29 CFR Section 5.5(a)(1)(ii)(B) or (C),shall be paid to all workers performing work in the

classification under this Contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the Contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided*, That the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

b) Withholding. The Department of Energy or the Recipient or Subrecipient shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the Contractor under this Contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices trainees, and helpers, employed by the Contractor or any subcontractor the full amount of wages required by the Contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction development of the project), all or part of the wages required by the Contract, the Department of Energy, Recipient, or Subrecipient, may, after written notice to the Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

c) Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs

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

(ii) (a) The Contractor shall submit weekly for each week in which any Contract work is performed a copy of all payrolls to the County. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR Section 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at http://www.dol.gov/esa/whd/forms/wh347instr.htm or its successor site. The prime Contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them only upon request to the County. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the County.

(b) Each payroll submitted shall be accompanied by a “Statement of Compliance,” signed by the Contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the Contract and shall certify the following:

i. That the payroll for the payroll period contains the information required to be provided under Section 5.5 (a)(3)(ii) of

Regulations, 29 CFR part 5, the appropriate information is being maintained under Section 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

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

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

(c) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by 29 CFR Section 5.5(a)(3)(ii)(B).

(d) The falsification of any of the above certifications may subject the Contractor or subcontractor to civil or criminal prosecution undersection 1001 of title 18 and section 3729 of title 31 of the United States Code.

(iii) The Contractor or subcontractor shall make the records required under 29 CFR Section 5.5 (a)(3)(i) available for inspection, copying, or transcription by authorized representatives of the County, the Department of Energy or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit the required records or to make them available, the County may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR Section 5.12.

d) Apprentices and trainees--

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such

an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a Contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR Section 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the

journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

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

e) Compliance with Copeland Act requirements. The Contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this Contract.

f) Contracts and Subcontracts. The contractors and subcontractor shall insert in any Contracts the clauses contained in 29 CFR Section 5.5(a)(1) through (10) and such other clauses as the Department of Energy may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of the paragraphs in this clause.

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

h) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this Contract.

i) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this Contract shall not be subject to the general disputes clause of this Contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Contractor or any of its subcontractors and the County, and/or the U.S. Department of Labor.

j) Certification of eligibility.

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

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

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. Section 1001.

k) Requirement to submit copies of certified payrolls. The Contractor must submit to the County on a weekly basis a copy of all certified payrolls prepared in accordance with 29 CFR Section 5.5 (a)(3(ii) for all lower tier contractors.

l) Requirement to notify the Energy Commission of any non-compliance.

The County will notify the Energy Commission of any non-compliance with Davis-Bacon prevailing wage requirements by any of its contractors.

3) **Contract Work Hours and Safety Standards Act.** As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

a) Overtime requirements. No Contractor or subcontractor shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

b) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in 3(a) of this paragraph the Contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in 29 CFR Section 5.5(b)(1), in the sum of $10 for each calendar day

on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in 29 CFR Section 5.5 (b)(1).

c) Withholding for unpaid wages and liquidated damages. The County shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such Work Order or any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in 29 CFR Section 5.5(b)(2).

d) Contracts and Subcontracts. The Contractor or subcontractor shall insert in any Contracts, the clauses set forth in 29 CFR Section 5.5 (b)(1) through (4) and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

e) The Contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the Contract for all laborers and mechanics, including guards and watchmen, working on the Project/Work Order. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. The records to be maintained under this paragraph shall be made available by the Contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the Department of Energy and the Department of Labor, and the Contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

N. NOT USED

O. NOT USED

3) ADDITIONAL FEDERAL PROVISIONS

A. SITE VISITS

The County, Energy Commission, the Federal awarding agency, and/or their designees have the right to make site visits at reasonable times to review project accomplishments and management control systems and to provide technical assistance, if required. The Contractor must provide and must require subcontractors and vendors to provide reasonable access to facilities, office space,

resources, and assistance for the safety and convenience of the government representatives in the performance of their duties. All site visits and evaluations must be performed in a manner that does not unduly interfere with or delay the work.

B. NOT USED

C. NOT USED

D. NOT USED

E. NOT USED

F. NOT USED

G. FEDERAL INTELLECTUAL PROPERTY PROVISIONS AND CONTACT INFORMATION

1) The Federal intellectual property provisions applicable to this award are provided in Exhibit E, Attachment 5 to this award. A list of all intellectual property provisions may be found at: http://www.gc.energy.gov/financial_assistance_awards.htm.

2) Questions regarding intellectual property matters should be referred to the DOE DOE Award Administrator and the Patent Counsel designated as the service provider for the DOE office that issued the award. The IP Service Providers List is found at: http://www.gc.doe.gov/documents/Intellectual_Property_(IP)_Service_Providers_for_Acquisition.pdf.

H. NOT USED

I. DECONTAMINATION AND/OR DECOMMISSIONING (D&D) COSTS

Notwithstanding any other provisions of this Agreement, the County, or any of the State or Federal Agencies shall not be responsible for or have any obligation to the Contractor or its subcontractors for (i) Decontamination and/or Decommissioning (D&D) of any of the facilities where this Work Order occurred or (ii) any costs which may be incurred by the Contractor or its subcontractors in connection with the D&D of any of its facilities due to the performance of the work under this Agreement, whether said work was performed prior to or subsequent to the effective date of this Agreement.

J. NOT USED

K. NOTICE REGARDING THE PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS – SENSE OF CONGRESS

It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this Work Order should be American-made.

L. NOT USED

M. WASTE MANAGEMENT PLAN

Prior to the proposed project activities generating any waste, the Contractor and its subcontractors and suppliers must each submit a Waste Management Plan to the County Project Manager. The Waste Management Plan must describe the Contractor/subcontractor/supplier's plan to dispose of any sanitary or hazardous waste generated by the project activities. Sanitary and hazardous waste includes, but is not limited to, construction and demolition debris, old light bulbs, lead ballasts, piping, roofing material, discarded equipment, debris, and asbestos.

The Waste Management Plan must comply with all Federal, state, and local laws and regulations governing waste disposal.

N. FEDERAL, STATE, AND MUNICIPAL REQUIREMENTS

The Contractor must obtain any required permits and comply with all applicable Federal, state, and municipal laws, codes, and regulations for work performed under this Work Order.

O. NOT USED

P. NOT USED

4. ATTACHMENTS

A. Exhibit G-1 Certifications Regarding Lobbying and Debarment, Suspension, and other Responsibility Matters

B. Exhibit G-2 Standard Form LLL, Disclosure of Lobbying Activities

C. Exhibit G-3 National Policy Assurances

D. Exhibit G-4 Federal intellectual Property Provisions