RESOLUTION - ACTION REQUESTED 2016-320

MEETING: June 21, 2016

TO: The Board of Supervisors

FROM: Tony Stobbe, Public Works Director

RE: YARTS Bus Stop in Fish Camp

RECOMMENDATION AND JUSTIFICATION:

Approve a 30 Year Agreement with Yosemite Area Regional Transportation System (YARTS) and Palm Springs Village-309, LLC to Locate a Bus Stop on a County Owned Parcel on Fish Camp Lane as Part of the Silver Tip Resort Project; and Authorize the Board of Supervisors Chair to Sign the Agreement. Board action to include environmental review findings.

This agreement was initiated by Palm Springs Village (PSV) and YARTS to satisfy Silver Tip Resort Project Condition of Approval No. 48, which states "The final site plan shall depict an area within the project site for a bus stop to be used by regional transit buses at such time transit service is extended to the Fish Camp Area."

It is also guided by Silver Tip Resort Project Condition of Approval No. 95, which states "The proposal to use the triangular piece of land owned by Mariposa County, north of the existing Post Office, easterly of the extension of Fish Camp Road for private parking is not approved. The site plan and parking diagram will need to be modified to reflect land ownership or the issuance of a special encroachment permit to use this publicly owned parcel of land."

While no such "special encroachment permit" mechanism exists, the proposed agreement accomplishes the intent of both conditions by providing for a YARTS stop, to be constructed and maintained by the Silver Tip Resort project, at no cost to the County. There will be no private use of the parcel for parking, and in addition, the established stop will be available for use by Mariposa County Transit.

The parcel in question is an odd shape and currently undeveloped. Approval of this agreement will allow it to serve a public benefit while remaining in control of the County.

The proposed agreement was drafted in a collaborative effort by YARTS, PSV, and Public Works. It has been adjusted further by County Counsel, including adding provisions to satisfy updated insurance guidelines.
In response to concerns expressed about the adequacy of the bus stop design for YARTS use, staff reached out to the Transit Manager and received the attached email confirming the design of the stop is satisfactory.

The YARTS JPA is scheduled to act on this item at their July 18, 2016, meeting.

Recommended environmental review findings are as follows:

1. Having considered the previously certified EIR, the Board of Supervisors finds that no supplemental or subsequent EIR is required for the agreement because this approval does not propose substantial changes in the project that require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. In addition, no substantial changes have occurred with respect to the circumstances under which the project is being undertaken. Finally, no new information of substantial importance (not known at the time the previous EIR was certified) has been identified which shows any significant effects not previously discussed in the EIR, or which indicates that the previously identified significant impacts will be substantially more severe than shown in the previous EIR.

2. The certified EIR and project approvals (including amended project approvals) contemplated the impacts of a bus stop; the original project conditions of approval required a bus stop to be provided by the project. Both the originally approved site plan and the amended project site plan showed parking improvements on the county-owned parcel. The amended project conditions of approval require a modification of the project site plan (where parking was shown on the county-owned parcel) or the issuance of a special permit to use the county-owned parcel.

3. This agreement does not change the 2003 conditions of approval and findings supported by evidence in the public record for the SilverTip Resort Lodge project, or the 2010 conditions of approval and findings supported by evidence in the public record. Conditions and findings are attached. The conditions of approval remain in full force and effect and are applicable to the development described in this agreement. This agreement is prepared pursuant to condition of approval No. 95, in lieu of a special encroachment permit. This agreement is the appropriate mechanism to implement condition of approval No. 95 because the proposal involves three entities: YARTS, the SilverTip project developer and Mariposa County.

4. This agreement does not change mitigation measures applicable to the Silver Tip Resort Lodge project, resulting from the 2003 Final Environmental Impact Report (EIR) certification. Mitigation measures are attached. All mitigation measures remain in full force and effect.

BACKGROUND AND HISTORY OF BOARD ACTIONS:
The Board has approved similar agreements in the past. On January 20, 2009, the Board approved an agreement with YARTS to enable the operation of the Midpines Park-N-Ride.

On December 2, 2003, for the SilverTip Resort Project, the Board:

- adopted Resolution No. 03-442 certifying the EIR and adopting findings, a mitigation monitoring and reporting program, and statement of overriding consideration;
- adopted Resolution No. 03-442, approving Specific Plan Amendment No. 99-1;
- waived the reading and adopted Ordinance No. 1000 approving Zoning Amendment No. 99-1;
- adopted Resolution No. 03-444, conditionally approving Conditional Use Permit No. 267 and adopting findings for the SilverTip Resort Village project;
- adopted Resolution No. 03-445, conditionally approving Planned Development Permit No. 99-01 for the Silvertip Resort Village project;
- adopted Resolution No. 03-446, conditionally approving Land Division Application No. 1511; and
- adopted Resolution 03-447, approving an Indemnification Agreement.

On November 9, 2010, the Board adopted Resolution No. 10-518, approving Amended Site Plan No. 2009-124 with findings to allow modification to the SilverTip Resort Village Project site plan and to clarify and modify conditions for the project.


ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:
The Board could chose to direct modifications of the agreement. The Board could also provide alternative direction to Public Works to guide further efforts regarding the potential use of this parcel.

FINANCIAL IMPACT:
None

ATTACHMENTS:
YARTS Stop Fishcamp Agreement (PDF)
YARTS email re Fish Camp Stop (PDF)
Notice of Determination YARTs Agreement (DOC)
Notice of Determination Attachments (PDF)
Email from Karen Glendenning requesting item be pulled from Consent (PDF)
CAO RECOMMENDATION
Requested Action Recommended

Mary Hodson, CAO 6/14/2016

RESULT: ADOPTED BY CONSENT VOTE [UNANIMOUS]
MOVER: Rosemarie Smallcombe, District I Supervisor
SECONDER: Marshall Long, District III Supervisor
AYES: Smallcombe, Jones, Long, Cann, Carrier
AGREEMENT FOR SILVERTIP BUS STOP

This Agreement is entered into by and between the County of Mariposa, a political subdivision of the State of California, hereinafter referred to as "COUNTY," Yosemite Area Regional Transportation System, a Joint Powers Authority, hereinafter referred to as "AUTHORITY," and Palm Springs Village-309, LLC, hereinafter referred to as "PSV."

WITNESSETH

Whereas, AUTHORITY has started a public transit service from Fresno to Yosemite National Park along State Route 41, including a stop in Fish Camp. In order to insure the success of that service and to meet the needs of the visitors to Fish Camp, AUTHORITY requires a bus stop ("BUS STOP") centrally located in the community of Fish Camp; and

Whereas, COUNTY owns a parcel of real property centrally located in the community of Fish Camp identified as APN 010-550-044 and depicted on Exhibit A attached hereto ("COUNTY PARCEL"); and

Whereas, the parties determined that the COUNTY PARCEL is the best site for the BUS STOP due to its proximity to State Route 41 and the route into and out of the BUS STOP; and

Whereas, PSV, as a Condition of Approval (No. 48) for the SilverTip Resort Village Project ("PROJECT"), is required to provide and maintain an AUTHORITY bus stop to serve the PROJECT; and

Whereas, the parties intend the facility to be a BUS STOP and not a "park and ride" and therefore has no need for on site or offsite parking. The intent is that the PROJECT will provide shuttle service for its guests and visitors.

Now, therefore, in consideration of the mutual covenants and conditions hereinafter contained, the parties hereto agree as follows:

1. This Agreement shall be for period of (30) years, commencing June 21, 2016 and terminating June 20, 2046.

2. There shall be no rent charged to AUTHORITY for the use of the COUNTY PARCEL.
3. PSV will, at its sole expense, construct and maintain the BUS STOP on the COUNTY PARCEL, including, but not limited to, snow clearance, landscaping, the BUS STOP structure and all associated improvements.

4. The bus circulation route includes Fish Camp Lane (a Mariposa County local road), the COUNTY PARCEL, and portions of the PROJECT roads. Construction improvements will be completed in accordance with the approved PROJECT plans, which shall substantially conform to the layout shown in Exhibit B.

5. PSV will grade the COUNTY PARCEL in order to construct the BUS STOP.

6. PSV will provide lighting and landscaping on the COUNTY PARCEL per the standards conditioned on the PROJECT.

7. PSV will provide a partially enclosed bus shelter, which meets the design requirements of AUTHORITY.

8. The approved PROJECT plans will provide ADA compliant passenger loading/unloading and interconnectivity to the PROJECT shuttle service (to be verified by a Certified Access Specialist).

9. PSV will provide shuttle service for PROJECT guests using the BUS STOP.

10. PSV will construct a driveway across a portion of the COUNTY PARCEL in order to provide public access to the United States Post Office parking lot and to provide ADA access to the BUS STOP and the PROJECT shuttle service.

11. There will be a driveway through the COUNTY PARCEL connecting the public road to the PROJECT to allow the AUTHORITY busses and the PROJECT shuttle buses to provide access to the BUS STOP.

12. Any construction and/or development activities associated with the BUS STOP operation shall be approved by the COUNTY and shall conform to all applicable County of Mariposa standards and regulations including, but not limited to, the Scenic Highway Overlay (SHO) development standards.

13. Since the primary purpose of the BUS STOP is to serve guests at the PROJECT, the AUTHORITY does not require any additional parking other than those conditioned on the PROJECT.
14. Provided there is no conflict with the use of the BUS STOP by the AUTHORITY and/or PSV, the BUS STOP may also be used on a non-exclusive basis in by Mariposa County Transit.

15. It is the expressed intention of the parties that AUTHORITY and PSV are not employees, agents, joint venturers or partners of COUNTY or each other. Nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between COUNTY, AUTHORITY or PSV or any employee or agent of COUNTY, AUTHORITY or PSV. All parties acknowledge that AUTHORITY and PSV are not COUNTY employees for state or federal tax purposes.

16. AUTHORITY shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the use of the BUS STOP by AUTHORITY, its agents, representatives, employees or subcontractors.

A. Minimum Scope And Limit Of Insurance

Coverage shall be at least as broad as:

1. Commercial General Liability (CGL): Insurance Services Office (ISO) Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than $2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this Agreement (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.

2. Automobile Liability: ISO Form CA 00 01 covering any auto (Code 1), or if AUTHORITY has no owned autos, hired (Code 8) and non-owned autos (Code 9), with a limit of no less than $2,000,000 per accident for bodily injury and property damage.

3. Workers’ Compensation: If applicable, as required by the State of California, with Statutory Limits, and Employer’s Liability Insurance with a limit of no less than $1,000,000 per accident for bodily injury or disease.

If AUTHORITY maintains broader coverage and/or higher limits than the minimum shown above, COUNTY requires and shall be entitled to the broader coverage and/or the higher limits maintained by AUTHORITY. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to COUNTY.
B. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

(1) Additional Insured Status: COUNTY, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of AUTHORITY including materials, parts, or equipment furnished in connection with such work or operations. General lability coverage can be provided in the form of an endorsement to AUTHORITY’S insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10, CG 20 25, CG 20 33, or CG 20 38; and CG 20 37 if a later edition is used).

(2) Primary Coverage: For any claims related to this Agreement, AUTHORITY’S insurance coverage shall be primary coverage at least as broad as ISO CG 20 01 04 13 as respects COUNTY, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by COUNTY, its officers, officials, employees, or volunteers shall be excess of AUTHORITY’s insurance and shall not contribute with it.

(3) Notice of Cancellation: Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to COUNTY.

(4) Waiver of Subrogation: AUTHORITY hereby grants to COUNTY a waiver of any right to subrogation which any insurer or AUTHORITY may acquire against COUNTY by virtue of the payment of any loss under such insurance. AUTHORITY agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not COUNTY has received a waiver of subrogation endorsement from the insurer.

(5) Self-Insured Retentions: Self-insured retentions must be declared to and approved by COUNTY. COUNTY may require AUTHORITY to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or COUNTY.

(6) Acceptability of Insurers: Insurance is to be placed with insurers with a current A.M. Best’s rating of no less than A:VII, unless otherwise acceptable to COUNTY.
(7) Verification of Coverage: AUTHORITY shall furnish COUNTY with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by COUNTY before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive AUTHORITY’s obligation to provide them. COUNTY reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

(8) Special Circumstances: COUNTY reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other circumstances.

17. Prior to commencement of grading or any other construction on the COUNTY PARCEL, PSV shall procure and maintain for the duration of this Agreement insurance against claims for injuries to person or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by PSV, its agents, representatives, employees or subcontractors.

A. Minimum Scope And Limit Of Insurance

Coverage shall be at least as broad as:

(1) Commercial General Liability (CGL): Insurance Services Office (ISO) Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than $2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this Agreement (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.

(2) Automobile Liability: ISO Form CA 00 01 covering any auto (Code 1), or if PSV has no owned autos, hired (Code 8) and non-owned autos (Code 9), with a limit of no less than $2,000,000 per accident for bodily injury and property damage.

(3) Workers’ Compensation: as required by the State of California, with Statutory Limits, and Employer’s Liability Insurance with a limit of no less than $1,000,000 per accident for bodily injury or disease.

If PSV maintains broader coverage and/or high limits than the minimums shown above, COUNTY requires and shall be entitled to the broader coverage and/or the higher limits maintained by PSV. Any available insurance proceeds in excess of the specified minimum limits or insurance and coverage shall be available to COUNTY.
B. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

(1) COUNTY, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of PSV including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to PSV'S insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 if a later edition is used).

(2) Primary Coverage: For any claims related to this Agreement, PSV’S insurance coverage shall be primary coverage at least as broad as ISO CG 20 01 04 13 as respects COUNTY, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by COUNTY, its officers, officials, employees, or volunteers shall be excess of PSV’S insurance and shall not contribute with it.

(3) Notice of Cancellation: Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to COUNTY.

(4) Waiver of Subrogation: PSV hereby grants to COUNTY a waiver of any right to subrogation which any insurer of PSV may acquire against COUNTY by virtue of the payment of any loss under such insurance. PSV agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not COUNTY has received a waiver of subrogation endorsement from the insurer.

(5) Self-Insured Retentions: Self-insured retentions must be declared to and approved by COUNTY. COUNTY may require PSV to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or COUNTY.

(6) Acceptability of Insurers: Insurance is to be placed with insurers with a current A.M. Best’s rating of no less than A:VII, unless otherwise acceptable to COUNTY.

(7) Verification of Coverage: PSV shall furnish COUNTY with original certificates and amendatory endorsements or copies of applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be
received and approved by COUNTY before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive PSV'S obligation to provide them. COUNTY reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

(8) Insurance Requirements for Construction Contract: PSV shall require and verify that the contractor primarily responsible for construction of the BUS STOP procure and maintain insurance meeting all of the requirements as set forth in Exhibit C attached hereto. These insurance requirements shall apply to PSV if it is doing the actual construction of the BUS STOP.

(9) Special Circumstances: COUNTY reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other circumstances.

(10) All PSV insurance policies shall name AUTHORITY as additional insured.

18. AUTHORITY shall hold harmless, defend and indemnify COUNTY and its officers, officials, employees and volunteers from and against any and all liability, loss, damage, expense, costs (including without limitation costs and fees of litigation) of every nature arising out of or in connection with the use of the BUS STOP by AUTHORITY or its failure to comply with any of its obligations contained in this Agreement, except such loss or damage which was caused by the negligence or willful misconduct of COUNTY.

19. PSV shall hold harmless, defend and indemnify COUNTY and its officers, officials, employees and volunteers from and against any and all liability, loss, damage, expense, costs (including without limitation costs and fees of litigation) of every nature arising out of or in connection with PSV'S performance of work hereunder or its failure to comply with any of its obligations contained in this Agreement, except such loss or damage which was caused by the sole negligence or willful misconduct of COUNTY.

20. In the event AUTHORITY fails to provide any of the services required herein and continues to fail to provide those services after due notice and with thirty (30) days to cure, COUNTY shall have the option of canceling this Agreement and to discontinue AUTHORITY'S use of the COUNTY PARCEL.

21. Any notices, requests, demands, documents, approvals or disapprovals given or sent under this Agreement from one party to the other party shall be in writing, may be given by that party's legal counsel and shall be (a) personally delivered, or (b) sent by registered or certified mail, postage prepaid, or (c) sent by facsimile, or (d) sent by
reputable overnight courier (such as FedEx), and shall be deemed received upon the
earlier of (i) if personally delivered, the date of delivery to the address of the party to
receive such notice, (ii) if mailed, three (3) business days following the date of posting by
the United States Postal Service, (iii) if sent by facsimile, when sent, or (iv) if sent by
reputable overnight courier, two (2) business days after deposit with the overnight
courier. Any notices, requests, demands, documents, approvals or disapprovals given or
sent by facsimile must be confirmed within forty-eight (48) hours by letter mailed or
delivered in accordance with the foregoing. The addresses and fax numbers of the Parties
are as follows:

To County: County of Mariposa
Director of Public Works
4639 Ben Hur Road
Mariposa, CA 95338
Telephone: (209) 966-5356
Fax: (209) 966-2828

To PSV: Palm Springs Village -309 LLC
Attn: Ira Glasky
2922 Daimler Street
Santa Ana, CA 92705
Telephone: (949) 224-1970
Fax: (949) 224-1963

To Authority: YARTS
Attn: Executive Director
369 W. 18th Street
Merced, CA 95340
Telephone: (209) 723-3153
Fax: (209) 723-0322

22. This Agreement supersedes any and all agreements, either oral or written, between
the parties hereto with respect to the BUS STOP and contains all the covenants and
agreements between the parties with respect to the BUS STOP. Each party to this
Agreement acknowledges that no representations, inducements, promises, or agreements,
orally or otherwise, have been made by any party, or anyone acting on behalf of any
party, which are not embodied herein, and that no other agreement, statement, or promise
not contained in this Agreement shall be valid or binding. Any modification of this
Agreement will be effective only if it is in writing signed by the party to be charged and
approved by COUNTY as provided herein or as otherwise required by law.
23. If any provision in this Agreement is held by a court or competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

24. If any action at law or in equity, including an action for declaratory relief, is brought to enforce or interpret the provisions of this Agreement, the prevailing party will be entitled to reasonable attorney’s fees, which may be set by the court in the same action or in a separate action brought for that purpose, in addition to any other relief to which that party may be entitled.

25. The parties shall comply with the standard of care regarding all applicable federal, state and county laws, rules and ordinances. No discrimination shall be made by any party in the employment of persons who work under this Agreement because of race, color, national origin, ancestry, disability, sex or religion of such person.

26. In the event that any party shall at any time or times waive any breach of this Agreement by any other party, such waiver shall not constitute a waiver of any other or succeeding breach of this Agreement, whether of the same or any other covenant, condition or obligation.

27. This Agreement and all matters relating to it shall be governed by the laws of the State of California and the County of Mariposa and any action brought relating to this Agreement shall be held exclusively in Mariposa County Superior Court.

28. This Agreement shall be binding upon and inure to the benefit of all the heirs, successors and assigns of each of the respective parties.

PALM SPRINGS VILLAGE -309, LLC

By: Scott A. Lissoy
Title: Managing Director

Date: 6/14/16

YOSEMITE AREA REGIONAL TRANSPORTATION SYSTEM

By: Marjie Kirn
Title: Executive Director

Date: 7/19/16
Approved as to Form:

Haden Law Office
Attorney for AUTHORITY

COUNTY OF MARIPOSA

John Carrier, Chairman
Board of Supervisors

Attest:

Renê LaRoche
Clerk of the board

Date: July 21, 2016

Date: June 21, 2016

Approved as to Form:

Steven W. Dahlem
County Counsel
EXHIBIT C

Insurance Requirements for Construction Contract

Contractor shall procure and maintain for the duration of the contract, and for 5 years thereafter, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees, or subcontractors.

A. Minimum Scope And Limit Of Insurance

Coverage shall be at least as broad as:

(1) Commercial General Liability (CGL): Insurance Services Office (ISO) Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than $5,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.

(2) Automobile Liability: ISO Form CA 0001 covering Code 1 (any auto), with limits no less than $5,000,000 per accident for bodily injury and property damage.

(3) Workers’ Compensation insurance as required by the State of California, with Statutory Limits, and Employers’ Liability insurance with a limit of no less than $1,000,000 per accident for bodily injury or disease.

(4) Builder’s Risk (Course of Construction) insurance utilizing an “All Risk” (Special Perils) coverage form, with limits equal to the completed value of the project and no coinsurance penalty provisions.
(5) Surety bonds as described below.

(6) Professional Liability (if Design/Build), with limits no less than $1,000,000 per occurrence or claim, and $2,000,000 policy aggregate.

(7) Contractors’ Pollution Legal Liability and/or Asbestos Legal Liability and/or Errors and Omissions (if project involves environmental hazards) with limits no less than $1,000,000 per occurrence or claim, and $2,000,000 policy aggregate.

If Contractor maintains broader coverage and/or higher limits than the minimums shown above, COUNTY requires and shall be entitled to the broader coverage and/or higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to COUNTY.

Self-insured retentions must be declared to and approved by COUNTY. At the option of the COUNTY, either: the Contractor shall cause the insurer to reduce or eliminate such self-insured retentions as respects COUNTY, its officers, officials, employees, and volunteers; or the Contractor shall provide a financial guarantee satisfactory to the COUNTY guaranteeing payment of losses and related investigations, claim administration, and defense expenses. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or COUNTY.

B. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

(1) COUNTY, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations and automobiles owned, leased, hired, or borrowed by or on behalf of the Contractor. General lability coverage can be provided in the form of an endorsement to the Contractor’s insurance (at least as broad as ISO Form CG 20 10, CG 11 85 or both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 forms if later revisions used).

(2) For any claims related to this project, the Contractor’s insurance coverage shall be primary insurance coverage at least as broad as ISO CG 20 01 04 13 as respects its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by COUNTY, its officers, officials, employees, or volunteers shall be excess of the Contractor’s insurance and shall not contribute with it.
(3) Each insurance policy required by this clause shall provide that coverage shall not be canceled, except with notice to COUNTY.

C. **Builder’s Risk (Course of Construction) Insurance**

Contractor may submit evidence of Builder’s Risk insurance in the form of Course of Construction coverage. Such coverage shall name COUNTY as a loss payee as their interest may appear.

D. **Acceptability of Insurers**

Insurance is to be placed with insurers with a current A.M. Best rating of no less than A: VII, unless otherwise acceptable to COUNTY.

E. **Waiver of Subrogation**

Contractor hereby agrees to waive rights of subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to affect his waiver of subrogation. The Workers’ Compensation policy shall be endorsed with a waiver of subrogation in favor of COUNTY for all work performed by the Contractor, its employees, agents and subcontractors.

F. **Verification of Coverage**

Contractor shall furnish COUNTY with original certificates and amendatory endorsements, or copies of the applicable insurance language, effecting coverage required by this contract. All certificate and endorsements are to be received and approved by COUNTY before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor’s obligation to provide them. COUNTY reserved the right to require complete, certified copies of all required insurance policies, including endorsements, required by these specifications, at any time.

G. **Subcontractors**

Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that COUNTY is an additional insured on insurance required from subcontractors. For CGL coverage subcontractors shall provide coverage with a format at least as broad as CG 20 38 04 13.

H. **Surety Bonds**
Contractor shall provide the following Surety Bonds:
(1) Bid bond
(2) Performance bond
(3) Payment bond
(4) Maintenance bond

The Payment Bond and the Performance Bond shall be in a sum equal to the contract price. If the Performance Bond provides for a one-year warranty a separate Maintenance Bond is not necessary. If the warranty period specified in the contract is for longer than one year a Maintenance Bond equal to 10% of the contract price is required. Bonds shall be duly executed by a responsible corporate surety, authorized to issue such bonds in the State of California and secured through an authorized agent with an office in California.

I. Special Risks or Circumstances

COUNTY reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other circumstances.