

AGENDA ITEM NO. \_\_\_\_\_ April 26, 2011

**COUNTY OF ALAMEDA  
PUBLIC WORKS AGENCY**

399 Elmhurst Street • Hayward, CA 94544-1307  
(510) 670-5480

April 12, 2011

The Honorable Board of Supervisors  
County Administration Building  
1221 Oak Street  
Oakland, CA 94612

Dear Board Members:

**SUBJECT:** EXECUTE AN AGREEMENT WITH PAVAO ELECTRIC,  
CONTRACT #6235 TO PROVIDE WATERFALL LIGHTING AND  
ENTRY MONUMENT LIGHTING FOR THE FIVE CANYONS  
COUNTY SERVICE AREA

**RECOMMENDATION:**

Approve and execute an agreement (Procurement Contract No #6235) with Pavao Electric (Principal: Tom Pavao; Location: Alameda), to provide waterfall lighting and entry monument lighting for Five Canyons County Service Area (CSA), PW-1994-1, for the period of May 2, 2011 through August 31, 2011 in the amount of \$94,920.

**DISCUSSION / SUMMARY:**

Five Canyons County Service Area (CSA) was established in 1994. The 718 acre CSA extends from East Castro Valley Boulevard near Jensen Road, to Fairview Avenue near Star Ridge Road. The CSA consists of numerous planned developments which benefit from multiple area-wide service programs; These include: roads, emergency vehicle access roads, bridges, storm drainage, landscaping, open space, erosion control, mass soil movement, fire buffer zones, retaining walls and entry monuments, graffiti abatement, and administrative and engineering services.

Agency staff meets regularly with volunteer CSA Advisory Committee members and other interested property owners to ensure service levels and address property owners' concerns. One of the concerns of the community is the lighting levels and vandalism occurring at the water fall and entry monument locations. The CSA, on the recommendations of the Committee, solicited bids to repair and provide lighting to the waterfall and entry monuments that addresses the lighting levels and provides products more resistant to vandalism than currently exists.

**SELECTION/CRITERIA PROCESS:**

*The Public Works Agency does not have the ability to provide the needed services for the waterfall lighting and entry monument lighting repair. The Public Works Agency developed specifications for the needed work and solicited bids from electrical contractors listed in the in Alameda County's Small Local Emerging Business database as qualified to perform this work. The request for bids was mailed on December 20, 2010 to the sixty-three vendors certified as SLEB vendors. The deadline for submission of the bids was 36 days later on January 25, 2011. Three vendors submitted bids by the deadline.*

*Pavao Electric was the lowest responsible bidder selected through the bidding process. Pavao Electric is certified as a small SLEB vendor (certification #10-00258) through October 31, 2012.*

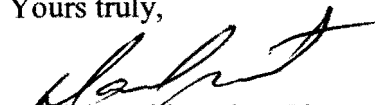
**Table 1: Abstract of Bids Received**

Contractor	Location	SLEB Vendor	Total Base Bid Amount	Total w/ Optional Bid Amount
Pavao Electric	Alameda	Yes	\$34,300	\$94,920
EWD Electric	Fremont	Yes	\$36,195	\$105,719
Pete Chacon Construction	Hayward	Yes	\$43,687	\$82,643

**FINANCING:**

The CSA is self-supporting and the service charges are based on services received. The contract is funded by service charges levied against the benefiting properties in the CSA and funds are available in Five Canyons CSA PW-1994-1 ORG 270531, Account 610261, Professional and Specialized Services. Funding for this program is included in the PWA FY 2010-11 budget (\$34,300) and the PWA FY 2011-12 recommended budget (\$60,620). No additional appropriations are required and there will be no increase in net county cost.

Yours truly,



Daniel Wolfesenbet, Ph.D., P.E.  
Director of Public Works

DW:jlt

**COUNTY OF ALAMEDA  
STANDARD SERVICES AGREEMENT**

This Agreement, dated as of April 26, 2011, is by and between the County of Alameda, hereinafter referred to as the "County", and Pavao Electric, 2425 A Clement Ave., Alameda, CA 94501, Tom Pavao hereinafter referred to as the "Contractor".

**WITNESSETH**

Whereas, County desires to obtain Waterfall Lighting and Entry Monument Lighting for Five Canyons County Service Area, PW-1994-1 services which are more fully described in Exhibit A hereto ("Definition of Services"); and

Whereas, Contractor is professionally qualified to provide such services and is willing to provide same to County; and

Now, therefore it is agreed that County does hereby retain Contractor to provide, Waterfall Lighting and Entry Monument Lighting, and Contractor accepts such engagement, on the General Terms and Conditions hereinafter specified in this Agreement, and the following described exhibits, all of which are incorporated into this Agreement by this reference:

Exhibit A	Definition of Services
Exhibit A-1	Definition of Services – Service Map Monument Areas
Exhibit B	Payment Terms
Exhibit C	Insurance Requirements
Exhibit D	Debarment and Suspension Certification
Exhibit E	Contract Compliance Reporting Requirements

The term of this Agreement shall be from May 2, 2011 through August 31, 2011

The compensation payable to Contractor hereunder shall not exceed (*ninety five thousand dollars*) (\$94,920) for the term of this Agreement.

2. **INDEMNIFICATION:** To the fullest extent permitted by law, Contractor shall hold harmless, defend and indemnify the County of Alameda, its Board of Supervisors, employees and agents from and against any and all claims, losses, damages, liabilities and expenses, including but not limited to attorneys' fees, arising out of or resulting from the performance of services under this Agreement, provided that any such claim, loss, damage, liability or expense is attributable to bodily injury, sickness, disease, death or to injury to or destruction of property, including the loss therefrom, or to any violation of federal, state or municipal law or regulation, which arises out of or is in any way connected with the performance of this agreement (collectively "Liabilities") except where such Liabilities are caused solely by the negligence or willful misconduct of any indemnitee, or as provided by Civil Code section 2782. The County may participate in the defense of any such claim without relieving Contractor of any obligation hereunder.

In the event that Contractor or any employee, agent, or subcontractor of Contractor providing services under this Agreement is determined by a court of competent jurisdiction or the Alameda County Employees' Retirement Association (ACERA) or California Public Employees' Retirement System (PERS) to be eligible for enrollment in ACERA and PERS as an employee of County, Contractor shall indemnify, defend, and hold harmless County for the payment of any employee and/or employer contributions for ACERA and PERS benefits on behalf of Contractor or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of County.

3. **INSURANCE AND BOND:** Contractor shall at all times during the term of the Agreement with the County maintain in force those insurance policies and bonds as designated in the attached Exhibit C, and will comply with all those requirements as stated therein.
4. **PREVAILING WAGES:** Pursuant to Labor Code Sections 1770 et seq., Contractor shall pay to persons performing labor in and about Work provided for in Contract not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the Work is performed, and not less than the general prevailing rate of per diem wages for legal holiday and overtime work in said locality, which per diem wages shall not be less than the stipulated rates contained in a schedule thereof which has been ascertained and determined by the Director of the State Department of Industrial Relations to be the general prevailing rate of per diem wages for each craft or type of workman or mechanic needed to execute this contract.

Sections 1775, 1776, and 1777.5 of the Labor Code apply to this contract. Section 1775 covers penalties to be assessed CONTRACTOR for failure to pay prevailing

wage rates; Section 1776 sets forth the responsibility of CONTRACTOR to insure maintenance of accurate payroll records for both CONTRACTOR and any pertinent subcontractors; Section 1777.5 covers the employment of properly registered apprentices, and places the responsibility for compliance with this Section with CONTRACTOR for all apprenticeable occupations.

- a. WAGE RATE. Contractor acknowledges that the proposed improvements may be deemed a work of public improvement subject to requirements of the California Labor Code, including payment of prevailing wage. To the fullest extent required by law, Contractor, his prime contractor, and all subcontractors performing any work on a work of public improvement, as part of the proposed improvements:
  - (1) Shall pay all workmen employed by them on said work a salary or wage at least equal to the prevailing salary or wage for the same quality of service rendered to private persons, firms or corporations under similar employment, which salary or wage shall not be less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the work is performed, and not less than the general prevailing rate of per diem wages for legal holidays and overtime work, and which salary or wage shall be not less than the stipulated rates contained in a schedule thereof which has been ascertained and determined by the Director of the Department of Industrial Relations, State of California, and which is now on file with the Public Works Department and by reference incorporated herein, and made a part herein, and made a part hereof;
  - (2) Agree and understand that eight hours labor shall constitute a day's work for any one calendar day on said work, and that no workman employed by them on the work or any part thereof shall be required or permitted to work thereupon more than eight hours in any one calendar day, and forty hours worked in excess of eight hours per day or forty hours per week at a rate not less than one and one half (1-1/2) times his basic rate of pay,
  - (3) Shall keep an accurate record showing the names and actual hours worked of all workers employed by him on the said work, which record shall be open at all reasonable hours to the inspection of the First Party or its agents, and to the Chief of the Division of Labor Statistics and Law Enforcement of the Department of Industrial Relations, his Deputies or Agents.

5. **CERTIFIED PAYROLL:** Contractor shall report certified payroll monthly utilizing the Alameda County Contract Compliance System. More information is found in Exhibit E.
6. **WORKERS' COMPENSATION:** Contractor shall provide Workers' Compensation insurance, as applicable, at Contractor's own cost and expense and further, neither the Contractor nor its carrier shall be entitled to recover from County any costs, settlements, or expenses of Workers' Compensation claims arising out of this Agreement.
7. **CONFORMITY WITH LAW AND SAFETY:**
  - a. In performing services under this Agreement, Contractor shall observe and comply with all applicable laws, ordinances, codes and regulations of governmental agencies, including federal, state, municipal, and local governing bodies, having jurisdiction over the scope of services, including all applicable provisions of the California Occupational Safety and Health Act. Contractor shall indemnify and hold County harmless from any and all liability, fines, penalties and consequences from any of Contractor's failures to comply with such laws, ordinances, codes and regulations.
  - b. **Accidents:** If a death, serious personal injury or substantial property damage occurs in connection with Contractor's performance of this Agreement, Contractor shall immediately notify the Alameda County Risk Manager's Office by telephone. Contractor shall promptly submit to County a written report, in such form as may be required by County of all accidents which occur in connection with this Agreement. This report must include the following information: (1) name and address of the injured or deceased person(s); (2) name and address of Contractor's sub-Contractor, if any; (3) name and address of Contractor's liability insurance carrier; and (4) a detailed description of the accident and whether any of County's equipment, tools, material, or staff were involved.
  - c. Contractor further agrees to take all reasonable steps to preserve all physical evidence and information which may be relevant to the circumstances surrounding a potential claim, while maintaining public safety, and to grant to the County the opportunity to review and inspect such evidence, including the scene of the accident.

8. **DEBARMENT AND SUSPENSION CERTIFICATION:** (Applicable to all agreements funded in part or whole with federal funds and contracts over \$25,000).
  - a. By signing this agreement and Exhibit D, Debarment and Suspension Certification, Contractor/Grantee agrees to comply with applicable federal suspension and debarment regulations, including but not limited to 7 Code of Federal Regulations (CFR) 3016.35, 28 CFR 66.35, 29 CFR 97.35, 34 CFR 80.35, 45 CFR 92.35 and Executive Order 12549.
  - b. By signing this agreement, Contractor certifies to the best of its knowledge and belief, that it and its principals:
    - (1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency;
    - (2) Shall not knowingly enter into any covered transaction with a person who is proposed for debarment under federal regulations, debarred, suspended, declared ineligible, or voluntarily excluded from participation in such transaction.
9. **PAYMENT:** For services performed in accordance with this Agreement, payment shall be made to Contractor as provided in Exhibit B hereto.
10. **TRAVEL EXPENSES:** Contractor shall not be allowed or paid travel expenses unless set forth in this Agreement.
11. **TAXES:** Payment of all applicable federal, state, and local taxes shall be the sole responsibility of the Contractor.
12. **OWNERSHIP OF DOCUMENTS:** Contractor hereby assigns to the County and its assignees all copyright and other use rights in any and all proposals, plans, specification, designs, drawings, sketches, renderings, models, reports and related documents (including computerized or electronic copies) respecting in any way the subject matter of this Agreement, whether prepared by the County, the Contractor, the Contractor's sub-Contractors or third parties at the request of the Contractor (collectively, "Documents and Materials"). This explicitly includes the electronic copies of all above stated documentation.

Contractor also hereby assigns to the County and its assignees all copyright and other use rights in any Documents and Materials including electronic copies stored in Contractor's Information System, respecting in any way the subject matter of this Agreement.

disclose any information made known to or discovered by it during the performance of or in connection with this Agreement. These conflict of interest and future service provisions and limitations shall remain fully effective five (5) years after termination of services to the County hereunder.

14. NOTICES: All notices, requests, demands, or other communications under this Agreement shall be in writing. Notices shall be given for all purposes as follows:

Personal delivery: When personally delivered to the recipient, notices are effective on delivery.

First Class Mail: When mailed first class to the last address of the recipient known to the party giving notice, notice is effective three (3) mail delivery days after deposit in a United States Postal Service office or mailbox. Certified Mail: When mailed certified mail, return receipt requested, notice is effective on receipt, if delivery is confirmed by a return receipt.

Overnight Delivery: When delivered by overnight delivery (Federal Express/Airborne/United Parcel Service/DHL WorldWide Express) with charges prepaid or charged to the sender's account, notice is effective on delivery, if delivery is confirmed by the delivery service. Telex or facsimile transmission: When sent by telex or facsimile to the last telex or facsimile number of the recipient known to the party giving notice, notice is effective on receipt, provided that (a) a duplicate copy of the notice is promptly given by first-class or certified mail or by overnight delivery, or (b) the receiving party delivers a written confirmation of receipt. Any notice given by telex or facsimile shall be deemed received on the next business day if it is received after 5:00 p.m. (recipient's time) or on a non-business day.

Addresses for purpose of giving notice are as follows:

To County: COUNTY OF ALAMEDA  
Public Works Agency  
951 Turner Court, Room 100  
Hayward, CA 94545  
Attn: Janice Thoni

To Contractor: PAVAO ELECTRIC  
2425 A Clement Ave.  
Alameda, CA 94501  
Attn: Tom Pavao



Any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified shall be deemed effective as of the first date that said notice was refused, unclaimed, or deemed undeliverable by the postal authorities, messenger, or overnight delivery service.

Any party may change its address or telex or facsimile number by giving the other party notice of the change in any manner permitted by this Agreement.

15. USE OF COUNTY PROPERTY: Contractor shall not use County property (including equipment, instruments and supplies) or personnel for any purpose other than in the performance of his/her obligations under this Agreement.
16. EQUAL EMPLOYMENT OPPORTUNITY PRACTICES PROVISIONS: Contractor assures that he/she/it will comply with Title VII of the Civil Rights Act of 1964 and that no person shall, on the grounds of race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Vietnam era Veteran's status, political affiliation, or any other non-merit factor, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Agreement.
  - a. Contractor shall, in all solicitations or advertisements for applicants for employment placed as a result of this Agreement, state that it is an "Equal Opportunity Employer" or that all qualified applicants will receive consideration for employment without regard to their race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Vietnam era Veteran's status, political affiliation, or any other non-merit factor.
  - b. Contractor shall, if requested to so do by the County, certify that it has not, in the performance of this Agreement, discriminated against applicants or employees because of their race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Vietnam era Veteran's status, political affiliation, or any other non-merit factor.
  - c. If requested to do so by the County, Contractor shall provide the County with access to copies of all of its records pertaining or relating to its employment practices, except to the extent such records or portions of such records are confidential or privileged under state or federal law.
  - d. Contractor shall recruit vigorously and encourage minority - and women-owned businesses to bid its subcontracts.
  - e. Nothing contained in this Agreement shall be construed in any manner so as to require or permit any act, which is prohibited by law.

- f. The Contractor shall include the provisions set forth in paragraphs A through E (above) in each of its subcontracts.
17. **DRUG-FREE WORKPLACE:** Contractor and Contractor's employees shall comply with the County's policy of maintaining a drug-free workplace. Neither Contractor nor Contractor's employees shall unlawfully manufacture, distribute, dispense, possess or use controlled substances, as defined in 21 U.S. Code § 812, including, but not limited to, marijuana, heroin, cocaine, and amphetamines, at any County facility or work site. If Contractor or any employee of Contractor is convicted or pleads nolo contendere to a criminal drug statute violation occurring at a County facility or work site, the Contractor within five days thereafter shall notify the head of the County department/agency for which the contract services are performed. Violation of this provision shall constitute a material breach of this Agreement
18. **AUDITS; ACCESS TO RECORDS:** The Contractor shall make available to the County, its authorized agents, officers, or employees, for examination any and all ledgers, books of accounts, invoices, vouchers, cancelled checks, and other records or documents evidencing or relating to the expenditures and disbursements charged to the County, and shall furnish to the County, its authorized agents, officers or employees such other evidence or information as the County may require with regard to any such expenditure or disbursement charged by the Contractor.

The Contractor shall maintain full and adequate records in accordance with County requirements to show the actual costs incurred by the Contractor in the performance of this Agreement. If such books and records are not kept and maintained by Contractor within the County of Alameda, California, Contractor shall, upon request of the County, make such books and records available to the County for inspection at a location within County or Contractor shall pay to the County the reasonable, and necessary costs incurred by the County in inspecting Contractor's books and records, including, but not limited to, travel, lodging and subsistence costs. Contractor shall provide such assistance as may be reasonably required in the course of such inspection. The County further reserves the right to examine and reexamine said books, records and data during the three (3) year period following termination of this Agreement or completion of all work hereunder, as evidenced in writing by the County, and the Contractor shall in no event dispose of, destroy, alter, or mutilate said books, records, accounts, and data in any manner whatsoever for three (3) years after the County makes the final or last payment or within three (3) years after any pending issues between the County and Contractor with respect to this Agreement are closed, whichever is later.

19. **DOCUMENTS AND MATERIALS:** Contractor shall maintain and make available to County for its inspection and use during the term of this Agreement, all Documents and Materials, as defined in Paragraph 11 of this Agreement. Contractor's obligations under the preceding sentence shall continue for three (3) years following termination or expiration of this Agreement or the completion of all work hereunder (as evidenced in writing by County), and Contractor shall in no event dispose of, destroy, alter or mutilate said Documents and Materials, for three (3) years following the County's last payment to Contractor under this Agreement.
20. **TIME OF ESSENCE:** Time is of the essence in respect to all provisions of this Agreement that specify a time for performance; provided, however, that the foregoing shall not be construed to limit or deprive a party of the benefits of any grace or use period allowed in this Agreement.
21. **TERMINATION:** The County has and reserves the right to suspend, terminate or abandon the execution of any work by the Contractor without cause at any time upon giving to the Contractor prior written notice. In the event that the County should abandon, terminate or suspend the Contractor's work, the Contractor shall be entitled to payment for services provided hereunder prior to the effective date of said suspension, termination or abandonment. Said payment shall be computed in accordance with Exhibit B hereto, provided that the maximum amount payable to Contractor for its Entry Monument Repair and Cleaning for Five Canyons County Service Area, PW-1994-1 Services shall not exceed \$40,000 payment for services provided hereunder prior to the effective date of said suspension, termination or abandonment.
22. **SMALL, LOCAL AND EMERGING BUSINESS (SLEB) PARTICIPATION:** Contractor has been certified by the County as a small or emerging local business. As a result, there is no requirement to subcontract with another business in order to satisfy the County's Small and Emerging Locally owned Business provision. If during the term of this contract, Contractor's certification status changes, Contractor shall notify the County within three business days.

**Should Contractor's status as a certified small or emerging local business change at any time during the term of this Agreement,** Contractor shall negotiate with County to be in compliance with the County's Small and Emerging Local Business provision, including but not limited to:

- a. Contractor must subcontract a minimum 20% of the remaining contract value with a certified small or emerging local business(es).

- b. SLEB subcontractor(s) is independently owned and operated (i.e., is not owned or operated in any way by Prime), nor do any employees of either entity work for the other.
- c. As is applicable, Contractor shall ensure that their certification status is maintained in compliance with the SLEB Program for the term of this contract.
- d. For any subcontractors retained to comply with this provision, Contractor shall not substitute any such small and/or emerging local business(s) subcontractor without prior written approval from the County. Said requests to substitute shall be submitted in writing to the County department contract representative identified under Item #13 above. Contractor will not be able to substitute the subcontractor without prior written approval from the Alameda County Auditor Controller Agency, Office of Contract Compliance (OCC). Further approval from the Board of Supervisors may also be required. .
- e. If subcontractors are added to the contract, all SLEB participation, except for prime contractor, must be tracked and monitored utilizing the Elation compliance System (see Exhibit E). SLEB prime contractor with SLEB subcontractors must enter payments made to subcontractors in the Elation System and ensure that SLEB subcontractors confirm payments received.

Contractor shall meet the requirements above within 15 business days of the County notifying Contractor that it is no longer in compliance with the program. County will be under no obligation to pay contractor for the percent committed to a SLEB subcontractor if the work is not performed by the listed small and/or emerging local business.

For further information regarding the Small Local Emerging Business participation requirements and utilization of the Alameda County Contract Compliance System contact the County Auditor- Controller's Office of Contract Compliance (OCC) located at 1221 Oak St., Rm. 249, Oakland, CA 94612 at Tel: (510) 891-5500, Fax: (510) 272-6502 or via E-mail at [ACSLEBcompliance@acgov.org](mailto:ACSLEBcompliance@acgov.org).

23. **FIRST SOURCE PROGRAM:** For contracts over \$100,000, Contractor shall provide County ten (10) working days to refer to Contractor, potential candidates to be considered by Contractor to fill any new or vacant positions that are necessary to fulfill their contractual obligations to the County that Contractor has available during the contract term before advertising to the general public.

24. CHOICE OF LAW: This Agreement shall be governed by the laws of the State of California.
25. WAIVER: No waiver of a breach, failure of any condition, or any right or remedy contained in or granted by the provisions of this Agreement shall be effective unless it is in writing and signed by the party waiving the breach, failure, right or remedy. No waiver of any breach, failure, right or remedy shall be deemed a waiver of any other breach, failure, right or remedy, whether or not similar, nor shall any waiver constitute a continuing waiver unless the writing so specifies.
26. ENTIRE AGREEMENT: This Agreement, including all attachments, exhibits, and any other documents specifically incorporated into this Agreement, shall constitute the entire agreement between County and Contractor relating to the subject matter of this Agreement. As used herein, Agreement refers to and includes any documents incorporated herein by reference and any exhibits or attachments. This Agreement supersedes and merges all previous understandings, and all other agreements, written or oral, between the parties and sets forth the entire understanding of the parties regarding the subject matter thereof. The Agreement may not be modified except by a written document signed by both parties.
27. HEADINGS herein are for convenience of reference only and shall in no way affect interpretation of the Agreement.
28. ADVERTISING OR PUBLICITY: Contractor shall not use the name of County, its officers, directors, employees or agents, in advertising or publicity releases or otherwise without securing the prior written consent of County in each instance.
29. MODIFICATION OF AGREEMENT: This Agreement may be supplemented, amended or modified only by the mutual agreement of the parties. No supplement, amendment or modification of this Agreement shall be binding unless it is in writing and signed by authorized representatives of both parties.
30. ASSURANCE OF PERFORMANCE: If at any time County believes Contractor may not be adequately performing its obligations under this Agreement or that Contractor may fail to complete the Services as required by this Agreement, County may request from Contractor prompt written assurances of performance and a written plan acceptable to County, to correct the observed deficiencies in Contractor's performance. Contractor shall provide such written assurances and written plan within ten (10) calendar days of its receipt of County's request and shall thereafter diligently commence and fully perform such written plan. Contractor acknowledges and agrees that any failure to provide such written

assurances and written plan within the required time is a material breach under this Agreement.

31. **SUBCONTRACTING/ASSIGNMENT:** Contractor shall not subcontract, assign or delegate any portion of this Agreement or any duties or obligations hereunder without the County's prior written approval.
  - a. Neither party shall, on the basis of this Agreement, contract on behalf of or in the name of the other party. Any agreement that violates this Section shall confer no rights on any party and shall be null and void.
  - b. Contractor shall use the subcontractors identified in Exhibit A and shall not substitute subcontractors without County's prior written approval.
  - c. Contractor shall remain fully responsible for compliance by its subcontractors with all the terms of this Agreement, regardless of the terms of any agreement between Contractor and its subcontractors.
32. **SURVIVAL:** The obligations of this Agreement, which by their nature would continue beyond the termination on expiration of the Agreement, including without limitation, the obligations regarding Indemnification (Paragraph 2), Ownership of Documents (Paragraph 11), and Conflict of Interest (Paragraph 12), shall survive termination or expiration.
33. **SEVERABILITY:** If a court of competent jurisdiction holds any provision of this Agreement to be illegal, unenforceable, or invalid in whole or in part for any reason, the validity and enforceability of the remaining provisions, or portions of them, will not be affected, unless an essential purpose of this Agreement would be defeated by the loss of the illegal, unenforceable, or invalid provision.
34. **PATENT AND COPYRIGHT INDEMNITY:** Contractor represents that it knows of no allegations, claims, or threatened claims that the materials, services, hardware or software ("Contractor Products") provided to County under this Agreement infringe any patent, copyright or other proprietary right. Contractor shall defend, indemnify and hold harmless County of, from and against all losses, claims, damages, liabilities, costs expenses and amounts (collectively, "Losses") arising out of or in connection with an assertion that any Contractor Products or the use thereof, infringe any patent, copyright or other proprietary right of any third party. County will: (1) notify Contractor promptly of such claim, suit or assertion; (2) permit Contractor to defend, compromise, or settle the claim; and, (3) provide, on a reasonable basis, information to enable Contractor to do so. Contractor shall not agree without County's prior written consent, to any settlement, which would require County to pay money or perform some

affirmative act in order to continue using the Contractor Products.

- a. If Contractor is obligated to defend County pursuant to this Section 33 and fails to do so after reasonable notice from County, County may defend itself and/or settle such proceeding, and Contractor shall pay to County any and all losses, damages and expenses (including attorney's fees and costs) incurred in relationship with County's defense and/or settlement of such proceeding.
  - b. In the case of any such claim of infringement, Contractor shall either, at its option, (1) procure for County the right to continue using the Contractor Products; or (2) replace or modify the Contractor Products so that that they become non-infringing, but equivalent in functionality and performance.
  - c. Notwithstanding this Section 33, County retains the right and ability to defend itself, at its own expense, against any claims that Contractor Products infringe any patent, copyright, or other intellectual property right.
35. OTHER AGENCIES: Other tax supported agencies within the State of California who have not contracted for their own requirements may desire to participate in this contract. The Contractor is requested to service these agencies and will be given the opportunity to accept or reject the additional requirements. If the Contractor elects to supply other agencies, orders will be placed directly by the agency and payments made directly by the agency.
- ~~36. EXTENSION: This agreement may be extended for two additional one year terms by mutual agreement of the County and the Contractor~~
37. SIGNATORY: By signing this agreement, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement

[END OF GENERAL TERMS AND CONDITIONS]

## EXHIBIT A DEFINITION OF SERVICES

1. Contractor shall provide Waterfall Lighting and Entry Monument Lighting Repair for Five Canyons County Service Area, PW-1994-1 Services in accordance with the "Specifications" section within County's Request for Bid document and "Bidder's Form" section of Contractor's Proposal dated December 17, 2010. Said sections are incorporated herein by reference. A Service map is attached hereto as Exhibit A-1.
  - a. In the event of any conflict (direct or indirect) among any of the above-referenced exhibits, the more stringent requirements providing the County with the broader scope of services shall have precedence, such that the specifications described in the County's Request for Bid sections and the scope of work described in Contractor's Bidder's Form shall both be performed to the greatest extent feasible.
2. Contractor project team will consist of the following Key Personnel and subcontractors, as applicable during the contract term:

Key Personnel	Title
Tom Pavao	Electrician

Contractor agrees that it shall not transfer or reassign the individuals identified above as Key Personnel or substitute subcontractors without the express written agreement of County, which agreement shall not be unreasonably withheld. Should such individual or individuals in the employ of Contractor no longer be employed by Contractor during the term of this Agreement, Contractor shall make a good faith effort to present to County an individual with greater or equal qualifications as a replacement subject to County's approval, which approval shall not be unreasonably withheld.

3. The approval of County to a requested change shall not release Contractor from its obligations under this Agreement.



**EXHIBIT A-page 2**  
**DEFINITION OF SERVICES**

4. Specifications for Replacement of the Waterfall Lights

The Five Canyons waterfall is located on the east side of Five Canyons Parkway between the I-580 freeway overpass and Boulder Canyon Drive. The services shall include the following:

- A. Evaluate the failure of the 110 volt lighting system which surrounds and once lit the waterfall, and the trees and shrubs adjacent to the waterfall. Approximately fourteen lighting fixtures currently surround the waterfall. Not all lights may need to be replaced as the landscaping has grown and changed since the initial installation. Provide the needed number of replacement lights with “Kim” fixtures as specified in bid. Light bulbs for the light fixture need to be a common type that can be easily purchased and replaced.
- B. Replace the wiring for the 110 volt light system.
- C. Remove old abandoned lights, wirings, and existing electrical boxes in the ground.

5. Specifications for Replacement of (1) Initial “Test” Entry Monument Light

The County requests a new monument light at one (1) neighborhood entry monument location at the south east corner of Five Canyons Parkway and Boulder Canyon Dr. The lights have been knocked off of pedestals, broken and repaired several times. The services shall include the following:

- D. Provide at least two (2) 110v “Kim” Architectural Grade light fixtures at this location to replace the existing lights as specified in proposal, mounted at ground level. Lights need to adequately light the entry monument sign. Light bulbs for the light fixture need to be a common type that can be easily purchased and replaced.
- E. Remove old abandoned lights and unused existing electrical boxes in the ground.

**EXHIBIT A-page 3**  
**DEFINITION OF SERVICES**

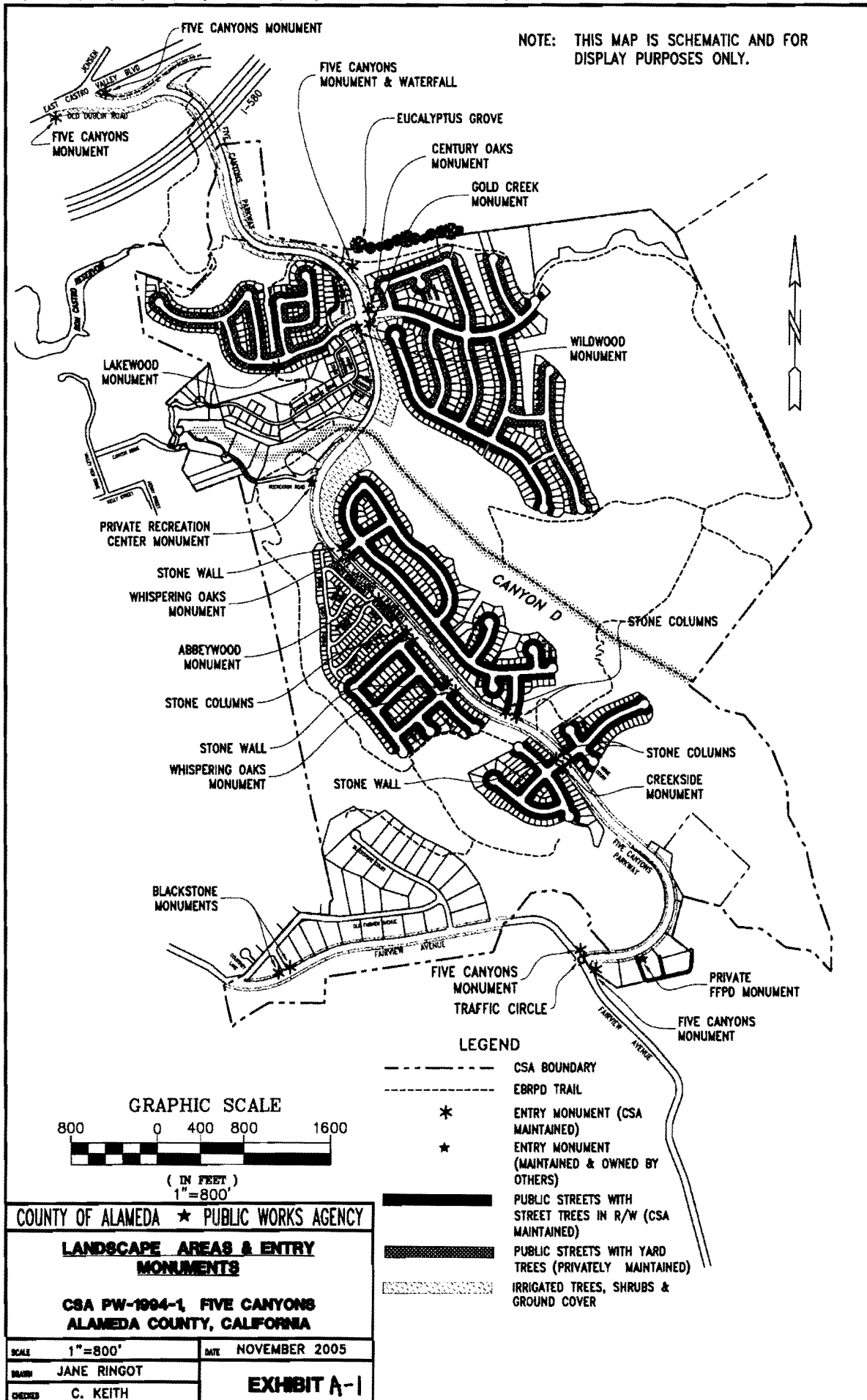
6. Specifications for Entry Monument Lights at (14) other locations

After a 30 day test period, a Notice to Proceed will be issued once it is determined that the new light fixtures proposed in *Item 5D* above are more successful at deterring vandalism than the previous style of light. Entry Monument lights will then be installed at fourteen (14) other locations as follows. There are approximately two (2) lights at each monument location (contractor to verify count in field) which will need to be replaced. Provide at least two (2) 110v "Kim" Architectural Grade light fixture(s) at each location to replace the existing lights. The lights will be the same type as in *Item 5D* above.

The additional entry monuments signs with lights are located at the following locations:

- Five Canyons Parkway and E. Castro Valley Blvd. (two monument signs),
- Five Canyons Parkway and the waterfall (one monument sign),
- Five Canyons Parkway and Boulder Canyon Dr. (two additional monument signs - one NE corner, one on SW corner),
- Five Canyons Parkway and Woodbury Dr. (one monument sign),
- Five Canyons Parkway and Abbeywood Dr. (one monument sign),
- Five Canyons Parkway and Silver Birch Dr. (one monument sign),
- Five Canyons Parkway and Peacock Hill Dr. (one monument sign),
- Five Canyons Parkway and Fairview Ave. (two monument signs),
- Fairview Ave. and Old Fairview Ave. (two monument signs) and
- Boulder Canyon Dr. near Rancho Palomares Dr. (one monument sign).

The Contractor shall be a licensed electrician and provide all labor, insurance and equipment necessary for work.



**EXHIBIT B**  
**PAYMENT TERMS**

1. County will pay Contractor upon successful completion and acceptance of the following services within thirty (30) days, upon receipt of invoice.

Payment No.	Payment Amount	Payment Monthly Upon Completion of Services
1. June 2011	\$ 34,300	1 <sup>st</sup> payment for installation of waterfall lights and installation of monument lighting at (1) test monument light
2. July 2011	\$30,310	2 <sup>nd</sup> payment for continuation of monument lighting installation
3. August 2011	\$30,310	3 <sup>rd</sup> payment for continuation and completion of monument lighting installation

2. Invoices will be approved by the County, Janice Thoni.
3. Total payment under the terms of this Agreement will not exceed the total amount of \$94,920. This cost includes all taxes and all other charges.
4. Upon award of this Agreement by County, County and Contractor shall forthwith jointly create a schedule governing the timely performance of Contractor's services hereunder. The agreed upon schedule shall be incorporated into this Agreement upon its adoption by the parties and thereafter Contractor shall perform all services under this Agreement in conformance with the schedule.
5. Upon notice to proceed from County, Contractor shall perform in accordance with the following schedule:

Schedule	Date
Purchase lights and begin waterfall lighting repair & monument lighting repair at (1) location	May 2, 2011
30 days to test the monument light	June 1, 2011
Begin monument lighting repair	July 1, 2011
Completion of monument lighting repair end of August	August 31, 2011



# CERTIFICATE OF LIABILITY INSURANCE

 OPID AX  
PAVAO-1

DATE (MM/DD/YYYY)

04/05/11

<b>PRODUCER</b> (WC) Heffernan Insurance Brkrs 1350 Carlback Ave, Suite 200 Walnut Creek CA 94596 Phone: 925-934-8500 Fax: 925-934-8278		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
<b>INSURED</b> DbA: Pavao Electric Tom Pavao 1337 Fernside Blvd. Alameda CA 94501		<b>INSURERS AFFORDING COVERAGE</b>	<b>NAIC #</b> 25674
		INSURER A Travelers Property Casualty Co	
		INSURER B	
		INSURER C	
		INSURER D	
		INSURER E	

## COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED, OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR	ADD'L	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS
A	X	<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> COMBINED GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUP <input type="checkbox"/> _____ <input type="checkbox"/> _____ GEN'L AGGREGATE LIMIT APPLIED PER <input type="checkbox"/> POLICY <input type="checkbox"/> PER POLICY <input type="checkbox"/> LIMIT	I6802069M668	03/22/11	03/22/12	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea accident) \$ 300,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMMOD AGG \$ 2,000,000
A		<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS	I6802069M668	03/22/11	03/22/12	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
		<b>GARAGE LIABILITY</b> <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY - EA ACC \$ AGG \$
		<b>EXCESS / UMBRELLA LIABILITY</b> <input type="checkbox"/> EXCESS <input type="checkbox"/> UMBRELLA <input type="checkbox"/> DEDUCTIBLE RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$ \$
		<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under SPECIAL PROVISIONS below				<input type="checkbox"/> STATE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A		<b>OTHER</b> <b>Property Section</b>				<b>PROPERTY</b> 5304

## DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

Project: As on file with the insured. Alameda County Public Works Agency is included as an additional insured on the General Liability as per the attached endorsement CGD2480805. \*30 day notice of cancellation except 10 day notice for non-payment of premium.

## CERTIFICATE HOLDER

ALAM--2  Alameda County Public Works Agency Special District 951 Turner Court Hayward, CA 94545
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## CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30\* DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE



# CERTIFICATE OF LIABILITY INSURANCE

 OP ID ZE  
 PAVAO-1

DATE (MM/DD/YYYY)

03/15/11

<b>PRODUCER</b> (WC) Heffernan Insurance Brkrs 1350 Carlback Ave, Suite 200 Walnut Creek CA 94596 Phone: 925-934-8500 Fax: 925-934-8278		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
<b>INSURED</b> DbA: Pavao Electric Tom Pavao 1337 Fernside Blvd. Alameda CA 94501		<b>INSURERS AFFORDING COVERAGE</b>	<b>NAIC #</b>
		INSURER A: Ullico Casualty Company	
		INSURER B:	
		INSURER C:	
		INSURER D:	
		INSURER E:	

## COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS

INSR ADD'L LTR INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS
	<b>GENERAL LIABILITY</b> <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR GENTL AGGREGATE LIMIT APPLIES PER <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC				EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COM/OP AGG \$
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	<b>GARAGE LIABILITY</b> <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC \$ AUTO ONLY AGG \$
	<b>EXCESS / UMBRELLA LIABILITY</b> <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$ \$
A	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Y/N (Mandatory in NH) If yes, describe under SPECIAL PROVISIONS below	UWHA486000294110	01/01/11	01/01/12	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER F.L. EACH ACCIDENT \$ 1000000 E.L. DISEASE - EA EMPLOYEE \$ 1000000 E.L. DISEASE - POLICY LIMIT \$ 1000000
	OTHER				

## DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

Project: As on file with the insured.  
 \*30 day notice of cancellation except 10 day notice for non-payment of premium.

## CERTIFICATE HOLDER

ALAM- -2 Alameda County Public Works Agency Special District 951 Turner Court Hayward, CA 94545
--

## CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30\* DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

ACORD 25 (2009/01)

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## EXHIBIT D

### COUNTY OF ALAMEDA DEBARMENT AND SUSPENSION CERTIFICATION

(Applicable to all agreements funded in part or whole with federal funds and contracts over \$25,000).

The contractor, under penalty of perjury, certifies that, except as noted below, contractor, its principals, and any named and unnamed subcontractor:

- Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;
- Has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past three years;
- Does not have a proposed debarment pending; and
- Has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three years.

If there are any exceptions to this certification, insert the exceptions in the following space.

Exceptions will not necessarily result in denial of award, but will be considered in determining contractor responsibility. For any exception noted above, indicate below to whom it applies, initiating agency, and dates of action.

Notes: Providing false information may result in criminal prosecution or administrative sanctions. The above certification is part of the Standard Services Agreement. Signing this Standard Services Agreement on the signature portion thereof shall also constitute signature of this Certification.

CONTRACTOR: PAVAO ELECTRIC

PRINCIPAL: THOMAS J. PAVAO TITLE: SOLE PROP.

SIGNATURE: [Signature] DATE: 4-7-11

## **EXHIBIT E**

### **COUNTY OF ALAMEDA CONTRACT COMPLIANCE REPORTING REQUIREMENTS**

Upon receipt of signed contract documents, prime contractor shall immediately enter/assign subcontractors in the System, confirm payments received from the County within 5 business days in the System, immediately enter payments made to subcontractors and ensure that subcontractors confirm they received payments within 5 business days in the System. Subcontractors shall confirm their payments received from the prime contractor within 5 business days in the System.

Alameda County Contract Compliance System training and ongoing support are provided at no charge to contractors and participating sub-contractors awarded a contract as a result of this bid process for this project. Contractors having contracts with the County should schedule a representative from their office/company, along with each of their subcontractors, to attend training. The training schedule may be viewed online at [http://www.elationsys.com/elationsys/support\\_1.htm](http://www.elationsys.com/elationsys/support_1.htm) or call Elation Systems at (510) 764-1870. A special access code will be provided to contractors and subcontractors participating in this contract awarded to allow use of the System free of charge.

It is the Contractor's responsibility to ensure that they and their subcontractors are registered and trained as required to utilize the Alameda County Contract Compliance System. Training sessions are approximately one hour and will be held periodically in a number of locations throughout Alameda County.