

## AGREEMENT

THIS AGREEMENT is made by and between the **COUNTY OF MONTEREY**, a political subdivision of the State of California, hereinafter called "COUNTY," and **TOMBLESSEN INCORPORATED**, hereinafter called "CONTRACTOR." For reference purposes, the date of this Agreement is **APRIL 10, 2012**.

COUNTY AND CONTRACTOR hereby agree as follows:

### ARTICLE 1. SCOPE OF WORK.

CONTRACTOR shall, within the time stipulated, perform the contract as herein defined and shall furnish all work, labor, equipment, transportation, material, and services to construct and complete in a good, expeditious, workmanlike, and substantial manner, the project: **JAIL RESTROOM RENOVATION-1410 NATIVIDAD RD, PROJECT NO. 8546, BID PACKAGE NO. 10345.**

All work shall be completed in strict conformance with the plans, specifications, and working details prepared by The Paul Davis Partnership, LLP, and the provisions of the documents listed in Article 6 below, and to the satisfaction of the COUNTY.

### ARTICLE 2. TIME FOR START AND COMPLETION.

CONTRACTOR shall commence the work on the starting date established in the Notice to Proceed and shall complete the bid work within the overall project duration of ***SEVENTY-FIVE (75)*** days as it pertains to CONTRACTOR's scope of work as defined by the contract documents. Additionally, CONTRACTOR shall coordinate their work with all other contractors whose work is affected by the scope of work defined in this Agreement. CONTRACTOR expressly agrees to provide appropriate labor, material and equipment in response to adjustments in the Project Schedule made by the Monterey County Director of Public Works or his/her designee during the course of the project in order to maintain the required progress.

### ARTICLE 3. CONTRACT PRICE.

COUNTY shall pay CONTRACTOR as full consideration for the performance of the contract, subject to any additions or deductions as provided in the contract documents, the contract sum of **SIXTY-ONE THOUSAND, EIGHT HUNDRED SEVENTY-FIVE DOLLARS, (\$61,875.00).**

### ARTICLE 4. LIQUIDATED DAMAGES.

THE PARTIES AGREE THAT IN CASE ALL THE WORK CALLED FOR UNDER THE CONTRACT IN ALL PARTS AND REQUIREMENTS IS NOT COMPLETED WITHIN THE TIME SPECIFIED IN THE CONTRACT DOCUMENTS, DAMAGE WILL BE SUSTAINED BY THE COUNTY, AND THAT IT IS AND WILL BE IMPRACTICABLE AND EXTREMELY DIFFICULT TO DETERMINE THE ACTUAL DAMAGE WHICH THE COUNTY WILL THEREBY SUSTAIN. THE PARTIES THEREFORE AGREE THAT THE CONTRACTOR WILL PAY TO THE COUNTY THE SUM SET FORTH IN THE ***SPECIAL CONDITIONS***, IF ANY, FOR EACH CALENDAR DAY OF DELAY UNTIL THE WORK IS COMPLETED AND ACCEPTED. CONTRACTOR AND HIS SURETY SHALL BE LIABLE FOR THE TOTAL AMOUNT THEREOF. THE CONTRACTOR AGREES TO PAY SAID LIQUIDATED DAMAGES ESTABLISHED HEREIN, AND FURTHER AGREES THAT THE COUNTY MAY DEDUCT THE AMOUNT THEREOF FROM ANY MONIES DUE OR THAT MAY BECOME DUE THE CONTRACTOR UNDER THE CONTRACT.

ARTICLE 5. NOTIFICATION OF THIRD-PARTY CLAIMS.

COUNTY shall notify CONTRACTOR of the receipt of any third-party claim relating to the contract and is entitled to recover its reasonable costs incurred in providing the notification as provided in Public Contract Code Section 9201.

ARTICLE 6. COMPONENT PARTS OF THIS CONTRACT.

The contract entered into by this Agreement consists of the following documents, all of which are component parts of the contract as if herein set out in full or attached hereto:

- Notice to Contractors Inviting Formal Bids
- Information for Bidders
- Bid, as accepted
- List of Subcontractors
- Noncollusion Affidavit
- Workers' Compensation Certificate
- Affidavit Concerning Employment of Undocumented Aliens
- Contractor's Certification of Good-Faith Effort to Hire Monterey Bay Area Residents
- Bid Bond or Bidder's Security
- Agreement
- Performance Bond
- Payment Bond for Public Works
- Insurance Certificate
- General Conditions of Bid 10345 Project Manual
- Special Conditions of Bid 10345 Project Manual
- Specifications & Plans
- Working Details
- Project Addenda Nos. 1 & 2 as issued.
- Exhibits (List): M3 Inspection Report

All of the above-named contract documents are intended to be complementary. Work required by one of the above-named contract documents and not by others shall be done as if required by all.

IN WITNESS WHEREOF, the parties have duly executed four (4) identical counterparts of this instrument, each of which shall be for all purposes deemed an original thereof, on the dates set forth below.

**COUNTY OF MONTEREY**

By: \_\_\_\_\_  
Name: Paul H. Greenway, P.E.  
Title: Acting Director of Public Works  
Date: \_\_\_\_\_, 2012

**APPROVED AS TO FORM  
CONTRACTS/PURCHASING**

By: \_\_\_\_\_  
Name: Mike Derr  
Title: Contracts/Purchasing Officer  
Date: \_\_\_\_\_, 2012

**APPROVED AS TO FORM & LEGALITY**

COUNTY COUNSEL  
By: \_\_\_\_\_  
Name: Jess Avila  
Title: Deputy County Counsel  
Date: 4-10, 2012

**APPROVED AS TO FISCAL TERMS**

COUNTY AUDITOR-CONTROLLER  
By: \_\_\_\_\_  
Name: Gary Giboney  
Title: Chief Deputy Auditor-Controller  
Date: 4-11, 2012

**APPROVED AS TO INDEMNITY/INSURANCE LANGUAGE**

RISK MANAGEMENT  
By: COUNTY OF MONTEREY  
Name: Steven F. Mauck  
Title: Risk Manager  
By: Mydia Schumaker  
Date: 4-10-12, 2012

**CONTRACTOR: TOMBLESON INC.**

By: \_\_\_\_\_  
Name: Steve Locke  
Title: President  
Date: March 1st, 2012

By: \_\_\_\_\_  
Name: Mike Locke  
Title: Corporate Secretary  
Date: March 1st, 2012

**COMPANY ADDRESS:**

TOMBLESON INCORPORATED  
ATTN: PRESIDENT STEVE LOCKE  
P O BOX 1388  
SALINAS CA 93902

Contractor's License Type: B  
License Number: 126454  
License Expiration Date: 10/31/2013

NOTE: Contractors are required to be licensed and regulated by the Contractors' State License Board. Any questions concerning a contractor may be referred to the Registrar, Contractors' State License Board, PO Box 26000, Sacramento CA 95826

\*INSTRUCTIONS: If Contractor is a corporation, including Limited Liability and Non profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers. If CONTRACTOR is a partnership, the name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this AGREEMENT on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the AGREEMENT.

Bond No.: 08950623  
Premium: \$681.00

DIVISION 00600 PERFORMANCE BOND PROJECT 8546, BID NO. 10345  
JAIL RESTROOM RENOVATION-1410 NATIVIDAD RD  
PAGE 1 OF 2

**PERFORMANCE BOND**  
(Public Contract Code Section 20129)

WHEREAS, the County of Monterey has awarded to Principal,

Tombleson, Inc.

as Contractor, for the following project:

**JAIL RESTROOM RENOVATION-1410 NATIVIDAD RD, PROJECT NO. 8546, BID PACKAGE NO. 10345; and**

WHEREAS, Principal, as Contractor, is required to furnish a bond in connection with said contract, to secure the faithful performance of said contract.

NOW, THEREFORE, we Tombleson, Inc.

as Principal, and Fidelity and Deposit Company of Maryland

as Surety, are held and firmly bound unto the County of Monterey, a political subdivision of the State of California (hereinafter called "County"), in the penal sum of Sixty One Thousand Eight Hundred Seventy Five & 00/100 Dollars (\$61,875.00), for the payment of which sum in lawful money of the United States, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

**THE CONDITION OF THIS OBLIGATION IS SUCH THAT:**

If the Principal, as Contractor, or Principal's heirs, executors, administrators, successors, or assigns, (1) shall in all things stand to and abide by and well and truly keep and perform the covenants, conditions, and agreements in said contract and any alteration thereof made as therein provided, on Principal's part to be kept and performed, at the time and in the manner therein specified and in all respects according to their true intent and meaning, and (2) shall indemnify, defend, and save harmless the County, the members of its board of supervisors, and its officers, agents and employees as therein stipulated, then this obligation shall become null and void; otherwise, it shall be and remain in full force and virtue.

Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or the call for bids, or to the work to be performed thereunder, or the specifications accompanying the same, shall in any way affect its obligation under this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of said contract or the call for bids, or to the work, or to the specifications.

Whenever the Principal, as Contractor, is in default, and is declared in default, under the Contract by the County of Monterey, the County of Monterey having performed its obligation under the contract, Surety may promptly remedy the default, or shall promptly:

1. Complete the contract in accordance with its terms or conditions, or
2. Obtain a bid or bids for submission to County of Monterey for completing the Contract in accordance with its terms or conditions, and upon determination by the County of Monterey and Surety of the lowest responsible and responsive bidder, arrange for a contract between such bidder and the County of Monterey, and make available as work progresses (even though there should be a default or succession of defaults under the contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the contract price.

If suit is brought upon this bond by the County and judgment is recovered, the Surety shall pay all litigation expenses incurred by the County in such suit, including attorneys' fees, court costs, expert witness fees and investigation expenses.

IN WITNESS WHEREOF, the above-bounden parties have executed this instrument under their several seals this 21st day of March, 2012, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

(Corporate Seal)

Tombleson, Inc.

Principal

By:

  
Steve Locke  
President

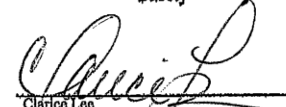
Title:

(Corporate Seal)

Fidelity and Deposit Company of Maryland

Surety

By:

  
Clarice Lee  
Attorney In Fact

Title:

Attach: 1) Copy of authorization for signature for Principal, and 2) original or certified copy of unrevoked appointment, Power of Attorney, Attorney-in-Fact Certificate bylaws or other instrument entitling or authorizing person executing bond on behalf of Surety to do so.

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

STATE OF CALIFORNIA

County of Los Angeles

On March 13, 2012 before me, Teri Jackson, Notary Public  
Date Here Insert Name and Title of the Officer

personally appeared Clarice Lee  
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.

Signature Teri Jackson  
Signature of Notary Public Teri Jackson



Place Notary Seal Above

**OPTIONAL**

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_

Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

**RIGHT THUMBPRINT OF SIGNER**

Top of thumb here

Signer Is Representing:  
Fidelity and Deposit Company of Maryland

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

**RIGHT THUMBPRINT OF SIGNER**

Top of thumb here

Signer Is Representing:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Power of Attorney  
FIDELITY AND DEPOSIT COMPANY OF MARYLAND**

KNOW ALL MEN BY THESE PRESENTS: That the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, a corporation of the State of Maryland, by THEODORE G. MARTINEZ, Vice President, and ERIC D. BARNES, Assistant Secretary, in pursuance of authority granted by Article VI, Section 2, of the By-Laws of said Company, which are set forth on the reverse side hereof and are hereby certified to be in full force and effect on the date hereof, does hereby nominate, constitute and appoint **Teresa I. JACKSON and Clarice LEE, both of Torrance, California**, EACH its true and lawful agent and Attorney-in-Fact, to make, execute, seal and deliver, for and on its behalf as surety, and as its act and deed: **any and all bonds and undertakings**, and the execution of such bonds or undertakings in pursuance of these presents, shall be as binding upon said Company, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the Company at its office in Baltimore, Md., in their own proper persons. This power of attorney, revokes that issued on behalf of Teresa I. JACKSON, Clarice LEE, dated August 13, 2008.

The said Assistant Secretary does hereby certify that the extract set forth on the reverse side hereof is a true copy of Article VI, Section 2, of the By-Laws of said Company, and is now in force.

IN WITNESS WHEREOF, the said Vice-President and Assistant Secretary have hereunto subscribed their names and affixed the Corporate Seal of the said FIDELITY AND DEPOSIT COMPANY OF MARYLAND, this 12th day of May, A.D. 2011.

ATTEST:

FIDELITY AND DEPOSIT COMPANY OF MARYLAND



*Eric D. Barnes*

Eric D. Barnes

*Theodore G. Martinez*

By:

Theodore G. Martinez

Assistant Secretary

State of Maryland }  
City of Baltimore } ss:

On this 12th day of May, A.D. 2011, before the subscriber, a Notary Public of the State of Maryland, duly commissioned and qualified, came THEODORE G. MARTINEZ, Vice President, and ERIC D. BARNES, Assistant Secretary of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, to me personally known to be the individuals and officers described in and who executed the preceding instrument, and they each acknowledged the execution of the same, and being by me duly sworn, severally and each for himself depose and saith, that they are the said officers of the Company aforesaid, and that the seal affixed to the preceding instrument is the Corporate Seal of said Company, and that the said Corporate Seal and their signatures as such officers were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year first above written.



*Maria D. Adamski*

Maria D. Adamski

Notary Public

My Commission Expires: July 8, 2015

**EXTRACT FROM BY-LAWS OF FIDELITY AND DEPOSIT COMPANY OF MARYLAND**

"Article VI, Section 2. The Chairman of the Board, or the President, or any Executive Vice-President, or any of the Senior Vice-Presidents or Vice-Presidents specially authorized so to do by the Board of Directors or by the Executive Committee, shall have power, by and with the concurrence of the Secretary or any one of the Assistant Secretaries, to appoint Resident Vice-Presidents, Assistant Vice-Presidents and Attorneys-in-Fact as the business of the Company may require, or to authorize any person or persons to execute on behalf of the Company any bonds, undertakings, recognizances, stipulations, policies, contracts, agreements, deeds, and releases and assignments of judgements, decrees, mortgages and instruments in the nature of mortgages, ...and to affix the seal of the Company thereto."

**CERTIFICATE**

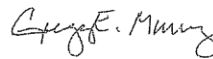
I, the undersigned, Assistant Secretary of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, do hereby certify that the foregoing Power of Attorney is still in full force and effect on the date of this certificate; and I do further certify that the Vice-President who executed the said Power of Attorney was one of the additional Vice-Presidents specially authorized by the Board of Directors to appoint any Attorney-in-Fact as provided in Article VI, Section 2, of the By-Laws of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND.

This Power of Attorney and Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at a meeting duly called and held on the 10th day of May, 1990.

RESOLVED: "That the facsimile or mechanically reproduced seal of the company and facsimile or mechanically reproduced signature of any Vice-President, Secretary, or Assistant Secretary of the Company, whether made heretofore or hereafter, wherever appearing upon a certified copy of any power of attorney issued by the Company, shall be valid and binding upon the Company with the same force and effect as though manually affixed."

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the corporate seal of the said Company,

this 10th day of April, 2012.



*Assistant Secretary*



**ACKNOWLEDGMENT**

State of California  
County of Monterey )

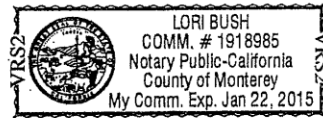
On 3-21-12 before me, Lori Bush, Notary Public  
(insert name and title of the officer)

personally appeared Steve Locke  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Lori Bush (Seal)



**PAYMENT BOND**  
(Civil Code section 3248)

WHEREAS, the County of Monterey has awarded to Principal,

Tombleson, Inc.

as Contractor, a contract for the following project:

**JAIL RESTROOM RENOVATION-1410 NATIVIDAD RD, PROJECT NO. 8546, BID  
PACKAGE NO. 10345; and**

WHEREAS, Principal, as Contractor, is required to furnish a bond in connection with said contract, to secure the payment of claims of laborers, mechanics, materialmen, and other persons furnishing labor and materials on the project, as provided by law.

NOW, THEREFORE, we Tombleson, Inc.

as Principal, and Fidelity and Deposit Company of Maryland

as Surety, are held and firmly bound unto the County of Monterey, a political subdivision of the State of California (hereinafter called "County"), and to the persons named in California Civil Code section 3181 in the penal sum of Sixty One Thousand Eight Hundred Seventy Five & 00/100 Dollars (\$ 61,875 .00 ), for the payment of which sum in lawful money of the United States, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

**THE CONDITION OF THIS OBLIGATION IS SUCH THAT:**

If Principal or any of Principal's heirs, executors, administrators, successors, assigns, or subcontractors (1) fails to pay in full all of the persons named in Civil Code Section 3181 with respect to any labor or materials furnished by said persons on the project described above, or (2) fails to pay in full all amounts due under the California Unemployment Insurance Code with respect to work or labor performed under the contract on the project described above, or (3) fails to pay for any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of the Principal and subcontractors pursuant to Unemployment Insurance Code section 13020 with respect to such work and labor, then the Surety shall pay for the same.

Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract on the call for bids, or to the work to be performed thereunder, or the specifications accompanying the same, shall in any way affect its obligation under this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of said contract or the call for bids, or to the work, or to the specifications.

If the County brings suit upon this bond and judgment is recovered, the Surety shall pay all litigation expenses incurred by the County in such suit, including attorneys' fees, court costs, expert witness fees and investigation expenses.

This bond inures to the benefit of any of the persons named in Civil Code section 3181, and such persons or their assigns shall have a right of action in any suit brought upon this bond, subject to any limitations set forth in Civil Code sections 3247 et seq. (Civil Code, Division 3, Part 4, Title 15, Chapter 7: Payment Bond for Public Works).

IN WITNESS WHEREOF the above-bounden parties have executed this instrument under their several seals this 21st day of March, 2012, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

(Corporate Seal)

Tombleson, Inc.  
Principal  
By [Signature]  
Steve Locke  
Title President

(Corporate Seal)

Fidelity and Deposit Company of Maryland  
Surety  
By [Signature]  
Clarice Lee  
Title Attorney In Fact

Attach: 1) Copy of authorization for signature for Principal, and 2) original or certified copy of unrevoked appointment, Power of Attorney, Attorney-in-Fact Certificate bylaws or other instrument enjoining or authorizing person executing bond on behalf of Surety to do so.

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

STATE OF CALIFORNIA

County of Los Angeles

On March 13, 2012 before me, Teri Jackson, Notary Public  
Date Here Insert Name and Title of the Officer

personally appeared Clarice Lee  
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.

Signature *Teri Jackson*  
Signature of Notary Public Teri Jackson



Place Notary Seal Above

**OPTIONAL**

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_

Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

**RIGHT THUMBPRINT OF SIGNER**

Top of thumb here

Signer Is Representing:  
Fidelity and Deposit  
Company of Maryland

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

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Top of thumb here

Signer Is Representing:  
\_\_\_\_\_  
\_\_\_\_\_