AGREEMENT
Division 005000

THIS AGREEMENT is made by and between the COUNTY OF MONTEREY, a political subdivision of the State of California, hereinafter called "COUNTY," and AVILA BROTHER'S, INC. DBA AVILA CONSTRUCTION COMPANY hereinafter called "CONTRACTOR." For reference purposes, the date of this Agreement is the date it is executed by the Public Works Director.

THE 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:

MONTEREY COUNTY GOVERNMENT CENTER EAST/WEST WING RENOVATION, PROJECT NO. 8864, BID NO. 10599.

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

ARTICLE 2 TIME FOR START AND FINAL COMPLETION

CONTRACTOR shall commence the work on the starting date established in the Notice to Proceed. The CONTRACTOR shall achieve Final Completion of the entire Work no later than TWO HUNDRED FIFTY FOUR **(254)** working days from the date of commencement.

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, hours, rates, materials, 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 Stipulated Sum of *(written amount):*

TWENTY-TWO MILLION, SEVEN HUNDRED SIX THOUSAND, TWO HUNDRED AND TWENTY DOLLARS.,

(numerical $ amount): **$ *22,706,220.00***.

The Stipulated Sum is based on the following alternates, if any, which are described in the Contract Documents and are hereby accepted by County:

ADDITIVE ALTERNATES #2, #3A, #3B, #4, #5, #6, AND #7.

Unit prices, if any: **NOT APPLICABLE**

(Identify and state the unit price, and state the quantity limitations, if any, to which the unit price will be applicable)

Item	Units and Limitations	Price per Unit ($0.00)

Allowances included in the Stipulated Sum, per Addendum #4:

(Identify allowances and state exclusions, if any, from the allowance price)

Allowance #1 – Create/Install Wall Mounted Art	**$ 6,000**
Allowance #2 – Exterior Sight Signage	**$25,000**
Allowance #3A – Room #W-304 Millwork	**$15,000**
Allowance #3B – Installation of Historic Features	**$ 2,000**
Allowance #4 – 3D Printing of Metal Door Motifs	**$10,000**
Allowance #5 – Patching of Concrete Floor Slabs	**$ 6,500 (Base + Alt #1 & #2)**
Allowance #6 - Infill of Concrete Floor Slabs	**$15,000 (Base + Alt #1 & #2)**

Allowance Work will be authorized by County in writing, following change order procedures to determine cost, supporting documentation and authorization to proceed. Unused allowance amounts at Contract completion shall reduce the Contract Sum accordingly.

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 COUNTY, AND THAT IT IS AND WILL BE IMPRACTICABLE AND EXTREMELY DIFFICULT TO DETERMINE THE ACTUAL DAMAGE WHICH COUNTY WILL THEREBY SUSTAIN. THE PARTIES THEREFORE AGREE THAT CONTRACTOR WILL PAY TO COUNTY THE SUM SET FORTH IN THE SUPPLEMENTARY CONDITIONS, IF ANY, FOR EACH CALENDAR DAY OF DELAY UNTIL THE WORK IS COMPLETED AND ACCEPTED. CONTRACTOR AND HIS/HER/ITS SURETY SHALL BE LIABLE FOR THE TOTAL AMOUNT THEREOF. CONTRACTOR AGREES TO PAY SAID LIQUIDATED DAMAGES ESTABLISHED HEREIN, AND FURTHER AGREES THAT COUNTY MAY DEDUCT THE AMOUNT THEREOF FROM ANY MONIES DUE OR THAT MAY BECOME DUE CONTRACTOR UNDER THE CONTRACT.

JMB JMB 3/3/17

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 Bidders
- Instructions to Bidders
- Bid, as accepted
- List of Subcontractors
- Noncollusion Declaration
- Workers' Compensation Certificate
- Iran Contracting Act Certification
- Contractor's Certification of Good-Faith Effort to Employ Monterey Bay Area Residents
- Written Plan to Recruit Monterey Bay Area Residents, when applicable
- Bid Bond or Bidder's Security
- Bidders Certifications
- Agreement
- Performance Bond
- Payment Bond
- Insurance Certificate
- Division 007100 General Conditions, Bid No. 10599
- Division 007300 Supplementary Conditions, Bid No. 10599
- Specifications and Drawings as Prepared by ARCHITECT *(refer to Volume Two and of Two attached to this Agreement that lists Section, Title, Date and Pages for Specifications; Number, Title and Date for Drawings.)*
- Appendices:
  A - List of Drawings
  B - Preliminary Project Milestone Schedule
  C – Mitigation Program
  D – Geotechnical Report
  E – Environmental Reports
  F – Telecom Cabling & Pathway
  G – 10 Year NOAA Climatological
  H – General Conditions, Article 33 Revised
- *As issue*d, Project Addenda Nos: 1, 2, 3, 4, 5, 6, and 7.

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 three (3) identical counterparts of this instrument, each of which shall be for all purposes deemed an original thereof, on the dates set forth below.

ARTICLE 7 - NOTICES

All notices to CONTRACTOR and COUNTY (including requests, demands, approvals or other communications other than ordinary course Project communications) in connection with the Project shall be in writing and shall include the word "NOTICE" in the subject line and shall be directed as follows.

County of Monterey
RMA - Department of Public Works
Atten: Judy Jeska
168 West Alisal – 2nd Floor
Salinas, CA 93901-2438

with a copy to:

Avila Brother's, Inc.
dba Avila Construction Company
Atten: Michael J. Avila
12 Thomas Owens Way, Suite 200
Monterey, CA 93940

A. Notice shall be sufficiently given for all purposes as follows:

a. When personally delivered to the recipient, notice is effective on delivery.
b. When mailed by certified mail with return receipt requested, notice is effective on receipt if delivery is confirmed by a return receipt.
c. When delivered by reputable delivery service, with charges prepaid or charged to the sender's account, notice is effective on delivery if delivery is confirmed by the delivery service.
d. Notice by facsimile or electronic mail shall not be allowed or constitute "Notice" under this paragraph.

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

C. Either party may, by written notice given at any time or from time to time require subsequent notices to be given to another individual person, whether a party or an officer or a representative, or to a different address, by giving the other party notice of the change in any manner permitted by this paragraph.

D. The provisions of this paragraph shall not alter, modify or excuse any legal or contractual requirement relating to claims under Division 00 7100 (General Conditions).

ARTICLE 8 – OTHER PROVISIONS

A. In order to induce COUNTY to enter into this Agreement, CONTRACTOR represents that it is duly organized, existing and in good standing under applicable state law; is licensed to perform all aspects of the Work; will employ only persons and subcontractors and designers with all required licenses and certifications; that CONTRACTOR is duly qualified to conduct business in the State of California; that CONTRACTOR has duly authorized the execution, delivery and performance of this Agreement, the other Contract Documents and the Work to be performed herein; and that the Contract Documents do not violate or create a default under any instrument, agreement, order or decree binding on CONTRACTOR.

B. CONTRACTOR shall not assign any portion of the Contract Documents.

C. Should any part, term or provision of this Agreement or any of the Contract Documents, or any document required herein or therein to be executed or delivered, be declared invalid, void or unenforceable, all remaining parts, terms and provisions shall remain in full force and effect and shall in no way be invalidated, impaired or affected thereby. If the provisions of any law causing such invalidity, illegality or unenforceability may be waived, they are hereby waived to the end that this Agreement and the Contract Documents may be deemed valid and binding agreements,

enforceable in accordance with their terms to the greatest extent permitted by applicable law. In the event any provision not otherwise included in the Contract Documents is required to be included by any applicable law, that provision is deemed included herein by this reference (or, if such provision is required to be included in any particular portion of the Contract Documents, that provision is deemed included in that portion).

D. It is understood and agreed that in no instance are the persons signing this Agreement for or on behalf of COUNTY or acting as an employee, agent, or representative of COUNTY, liable on this Agreement or any of the Contract Documents, or upon any warranty of authority, or otherwise, and it is further understood and agreed that liability of COUNTY is limited and confined to such liability as authorized or imposed by the Contract Documents or applicable law.

E. In entering into a public works contract or a subcontract to supply goods, services or materials pursuant to a public works contract, CONTRACTOR or Subcontractor offers and agrees to assign to the awarding body all rights, title and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. §15) or under the Cartwright Act (Chapter 2 (commencing with §16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services or materials pursuant to the public works contract or the subcontract. This assignment shall be made and become effective at the time COUNTY tenders final payment to CONTRACTOR, without further acknowledgment by the parties.

F. Copies of the general prevailing rates of per diem wages for each craft, classification, or type of worker needed to execute the Contract, as determined by Director of the State of California Department of Industrial Relations, are deemed included in the Contract Documents and on file at COUNTY's Office, and shall be made available to any interested party on request. Pursuant to California Labor Code §§ 1860 and 1861, in accordance with the provisions of Section 3700 of the Labor Code, every CONTRACTOR will be required to secure the payment of compensation to his employees. CONTRACTOR represents that it is aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and CONTRACTOR shall comply with such provisions before commencing the performance of the Work of the Contract Documents.

G. COUNTY shall have the right to review all phases of CONTRACTOR's design of deferred submittals including, but not limited to, drawings, specifications, shop drawings, samples and submittals, as specified in the Contract Documents. Such review and other action shall not relieve CONTRACTOR of its responsibility for a complete design of deferred submittals complying with the requirements of the Contract Documents; but rather, such review shall be in furtherance of COUNTY's monitoring and accepting the design of deferred submittals as developed and issued by the CONTRACTOR, consistent with these Contract Documents. CONTRACTOR's responsibility to design deferred submittals and construct the Project in conformance with the Contract Documents shall be absolute.

H. This Agreement and the Contract Documents shall be deemed to have been entered into in the County of Monterey, State of California, and governed in all respects by California law (excluding choice of law rules). The exclusive venue for all disputes or litigation hereunder shall be in the Superior Court for the County of Monterey.

COUNTY OF MONTEREY

By: _____

Name: Benny J. Young, P.E.

Title: Interim Deputy Director of Public Works & Facilities

Date: , 2017

APPROVED AS TO FORM

CONTRACTS/PURCHASING

By: _____

Name: Mike Derr

Title: Contracts/Purchasing Officer

Date: , 2017

APPROVED AS TO FORM & LEGALITY

as Revised pg 2 pg 5. Charles J. McKee

COUNTY COUNSEL

By: _____

Name: Mary Grace Perry

Title: Deputy County Counsel

Date: March 3 , 2017

APPROVED AS TO FISCAL TERMS

COUNTY AUDITOR-CONTROLLER

By: _____

Name: ~~Gary Giboney~~

Title: ~~Chief~~ Deputy Auditor-Controller

Date: 3/2 , 2017

APPROVED AS TO INDEMNITY/ INSURANCE LANGUAGE

RISK MANAGEMENT

By: _____

Name: Steven F. Mauck

Title: ~~Risk Manager~~

Date: 3/1/17 , 2017

RISK MANAGEMENT
COUNTY OF MONTEREY
APPROVED AS TO INDEMNITY/
INSURANCE LANGUAGE

CONTRACTOR: AVILA CONSTRUCTION

By: _____

Principal Name: Michael J. Avila

Title: CFO/Secretary

Date: 3/6/ , 2017

By: _____

Principal Name2: Steven M. Avila

Title: President

Date: , 2017

COMPANY ADDRESS:
12 Thomas Owens Way, Suite 200

Monterey, CA 93940

Contractor's License Type: B

License Number: 550380

License Expiration Date: 12/31/2018

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/P O BOX 26000/ SACRAMENTO CA 95826

INSTRUCTIONS: If bidder is a corporation, the full legal name of the corporation shall be set forth above together with the signatures of authorized officers or agents and the document shall bear the corporate seal; if bidder is a partnership, the full name of the firm shall be set forth above together with the signature of the partner or partners authorized to sign contracts on behalf of the partnership; and if bidder is an individual, his signature shall be placed above.

APPENDIX H
GENERAL CONDITIONS
ARTICLE 33 – REVISED PER
AB 626 REQUIREMENTS

ARTICLE 33 CLAIMS AND DISPUTE RESOLUTION

33.01 Prompt resolution of differences required. It is the intention of this Article that differences between the parties arising under and by virtue of this Contract be brought to the attention of Construction Manager and Architect at the earliest possible time in order that such matters may be promptly settled, if possible, or other appropriate action may be taken promptly. To that end, County and Contractor agree to attempt informal resolution of disputes prior to initiating the claim process.

33.02 Contract interpretations/performance judging/decisions by Architect and Construction Manager. (a) All claims may be presented informally first to Architect. To the extent that resolution of the claim does not involve an extension of time or additional payments, Architect may resolve, in writing, or otherwise, claims that have been presented informally.

(b) The Architect will be, in the first instance, the interpreter of the requirements of the contract documents and the judge of performance thereunder by both County and Contractor. The Architect will, within a reasonable time, render such interpretations, as Construction Manager may deem necessary for the proper execution or progress of the work. Claims, disputes, and other matters in question between Contractor and County relating to the execution or progress of the Work or interpretation of the Contract Documents shall be referred initially to the Architect for decision which Architect will render, in writing, within a reasonable time. In Architect's capacity as interpreter and judge, Architect will exercise his or her best efforts to ensure faithful performance by both County and Contractor and will not show partiality to either. All interpretations and decisions of the Architect shall be consistent with the intent of the Contract Documents.

33.03 Obligation to Seek Informal Resolution Prior to Filing Claim for Disputed Work. Should it appear to Contractor that the Work to be performed or any of the matters relative to the Contract Documents are not satisfactorily detailed or explained therein, or should any questions arise as to the meaning or intent of the Contract Documents, or should any dispute arise regarding the true value of any work performed, work omitted, extra work that the Contractor may be required to perform, time extensions, payment to the Contractor during performance of this Contract, performance of the Contract, and/or compliance with Contract procedures, or should Contractor otherwise seek extra time, compensation or payment FOR ANY REASON WHATSOEVER, then Contractor shall first follow procedures set forth in the Contract (including but not limited to other Articles of this Division 00 7100 and Section 01 2600.) If a dispute remains, then Contractor shall give written notice to County that expressly invokes this Article 33. County shall decide the issue in writing within 15 days; and County's written decision shall be final and conclusive.

33.04 Time for giving notice. Notice of dispute or potential claim must be given in writing by the Contractor as follows:

(a) For a potential claim of an increase in the contract sum, Contractor shall give the Architect written notice thereof within ten (10) days after the occurrence of the event giving rise to such claim; in addition, this notice shall be given by Contractor before proceeding to execute the portion of the work to which the claim relates, except in an emergency endangering life or property, and except where Contractor could not reasonably have discovered the facts giving rise to the claim prior to commencement of that portion of the work.

(b) For a potential claim of an extension of time, Contractor shall give written notice to the Construction Manager no more than ten (10) days after the occurrence of the delay; otherwise they shall be waived. In the case of a continuing cause of delay, only one (1) claim is necessary.

(c) In all other cases, notice shall be given within ten (10) days after the happening of the event, thing, or occurrence giving rise to the potential claim.

33.05 Form and Contents of Claim. If Contractor disagrees with County's decision, or if Contractor contends that County failed to provide a decision timely, then Contractor's SOLE AND EXCLUSIVE REMEDY is to promptly file a written Claim setting forth Contractor's position as required herein. The Claim shall be submitted to County within thirty (30) calendar days of receiving County's written decision, or the date Contractor contends such decision was due. The Contractor shall furnish reasonable documentation to support the Claim. Contractor's written Claim must identify itself as a "Claim" under this Article 33 and must include the following: (1) a narrative of pertinent events; (2) citation to contract provisions; (3) theory of entitlement; (4) complete pricing of all cost impacts; (5) a time impact analysis of all time delays that shows actual time impact on the critical path; and (6) documentation supporting items (1) through (5). The Claim must be verified under penalty of perjury by Contractor's Project Superintendent as to the Claim's accuracy, and shall be priced like a change order, and must be updated monthly as to cost and entitlement if a continuing Claim. The Claim must be sent by sent by registered mail or certified mail with return receipt requested to the County per Article 7, Notices, of the Agreement. Routine contract materials, for example, correspondence, RFI, Change Order requests, or payment requests shall not constitute a Claim. Contractor shall bear all costs incurred in the preparation and submission of a Claim.

33.06 Actions by County Upon Receipt of Claim.

(a) Upon receipt of a Claim, the County shall conduct a reasonable review of the Claim and, within a period not to exceed 45 days, shall provide the Contractor a written statement identifying what portion of the Claim is disputed and what portion is undisputed.

(b) The County and the Contractor may, by mutual agreement, extend the time period provided in this section.

(c) If the County needs approval from the Board of Supervisors to provide the Contractor a written statement identifying the disputed portion and the undisputed portion of the Claim, and the Board does not meet within the 45 days or within the mutually agreed to extension of time following receipt of a Claim sent by registered mail or certified mail, return receipt requested, the County shall have up to three days following the next duly publicly noticed meeting of the governing body after the 45-day period, or extension, expires to provide the Contractor a written statement identifying the disputed portion and the undisputed portion.

33.07 Written Statement by County. Any payment due on an undisputed portion of the Claim shall be processed and made within 60 days after the County issues its written statement. Failure by the County to issue a written statement shall result in the Claim being deemed rejected in its entirety. A Claim that is denied by reason of the County's failure to have responded to a Claim, or its failure to otherwise meet the time requirements of this Article 33, shall not constitute an adverse finding with regard to the merits of the Claim or the responsibility or qualifications of the Contractor.

33.08. Contactor's Dispute of Written Response. If the Contractor disputes the County's written response, or if the County fails to respond to a Claim issued pursuant to this section within the time prescribed, the Contractor may demand in writing an informal conference to meet and confer for settlement of the issues in dispute. Upon receipt of a demand in writing sent by registered mail or

certified mail, return receipt requested, the County shall schedule a meet and confer conference within 30 days for settlement of the dispute.

33.09. Written Statement by County After Meet and Confer Conference. Within 10 business days following the conclusion of the meet and confer conference, if the Claim or any portion of the Claim remains in dispute, the County shall provide the Contractor a written statement identifying the portion of the Claim that remains in dispute and the portion that is undisputed. Any payment due on an undisputed portion of the Claim shall be processed and made within 60 days after the County issues its written statement.

33.10. Nonbinding Mediation.

(a) Any disputed portion of the Claim, as identified by the contractor in writing, shall be submitted to nonbinding mediation, with the County and the Contractor sharing the associated costs equally. The County and Contractor shall mutually agree to a mediator within 10 business days after the disputed portion of the Claim has been identified in writing. If the parties cannot agree upon a mediator, each party shall select a mediator and those mediators shall select a qualified neutral third party to mediate with regard to the disputed portion of the Claim. Each party shall bear the fees and costs charged by its respective mediator in connection with the selection of the neutral mediator.

(b) Mediation includes any nonbinding process, including, but not limited to, neutral evaluation or a dispute review board, in which an independent third party or board assists the parties in dispute resolution through negotiation or by issuance of an evaluation. Any mediation utilized shall conform to the timeframes in this section.

(c) If mediation is unsuccessful, the parts of the Claim remaining in dispute shall be subject to applicable procedures outside this section.

(d) Unless otherwise agreed to by the County and the Contractor in writing, the mediation conducted pursuant to this section shall excuse any further obligation under Section 20104.4 of the Public Contract Code to mediate after litigation has been commenced.

(e) The Claim resolution procedures in this article do not preclude the County from requiring arbitration of disputes under private arbitration or the Public Works Contract Arbitration Program, if mediation under this article does not resolve the parties' dispute.

33.11. Amounts Not Paid Timely. Amounts not paid in a timely manner as required by this Article 33 shall bear interest at 7 percent per annum.

33.12 Claims by Subcontractors. If a subcontractor or a lower tier subcontractor lacks legal standing to assert a Claim against the County because privity of contract does not exist, the Contractor may present to the County a Claim on behalf of a subcontractor or lower tier subcontractor. A subcontractor may request in writing, either on his or her own behalf or on behalf of a lower tier subcontractor, that the contractor present a Claim for work which was performed by the subcontractor or by a lower tier subcontractor on behalf of the subcontractor. The subcontractor requesting that the Claim be presented to the public entity shall furnish reasonable documentation to support the Claim. Within 45 days of receipt of this written request, the contractor shall notify the subcontractor in writing as to whether the contractor presented the Claim to the County and, if the original contractor did not present the Claim, provide the subcontractor with a statement of the reasons for not having done so.

33.13 Prompt response when needed. Whenever it appears that a prompt response is essential, County will respond to Claims sooner than the limits prescribed above.

33.14 Compliance.

(a) The provisions of this Article constitute a non-judicial Claim settlement procedure that, pursuant to Section 930.2 of the California Government Code, shall constitute a condition precedent to submission of a valid Claim under the California Government Code. Contractor shall bear all costs incurred in the preparation, submission and administration of a Claim. Any Claims presented in accordance with the Government Code must affirmatively indicate Contractor's prior compliance with the Claims procedure herein and the previous dispositions of the Claims asserted. Pursuant to Government Code Section 930.2, the one (1) year period in Government Code Section 911.2 shall be reduced to one-hundred-fifty (150) days from either accrual of the cause of action, substantial completion or termination of the contract, whichever occurs first; in all other respects, the Government Code shall apply unchanged.

(b) Failure to submit and administer Claims as required in Article 33 shall waive Contractor's right to Claim on any specific issues not included in a timely submitted Claim. Claim(s) or issue(s) not raised in a timely protest and timely Claim submitted under this Article 33 may not be asserted in any subsequent litigation, Government Code Claim, or legal action.

(c) County shall not be deemed to waive any provision under this Article 33, if at County's sole discretion, a Claim is administered in a manner not in accord with this Article 33. Waivers or modifications of this Article 33 may only be made through a signed change order approved as to form by legal counsel for both County and Contractor; oral or implied modifications shall be ineffective.

33.15 Filing of Government Code claims. If the Contractor still remains unsatisfied and desires to preserve his/her right to pursue the matter further, Contractor must then file a claim with County, pursuant to Government Code Sections 900 et seq. or Sections 910 et seq.

33.16 Civil action. If the Government Code claim is denied, Contractor may file an action in court. Such action shall be subject to Public Contract Code Sections 9204 or 20104.4. This Section applies only to claims subject to Public Contract Code Sections 9204 or 20104. If a claim is not subject to Public Contract Code Sections 9204 or 20104, the Contractor's right to file a civil action shall be as otherwise provided by law.

33.17 Claims for damages. Should either party to the contract suffer injury or damage to person or property because of any act or omission of the other party or of any of his employees, agents, or others for whose acts he is legally liable, claim shall be made, in writing, to such other party within a reasonable time after the first observance of such injury or damage, provided that in no case may such a claim be filed after expiration of any applicable statute of limitations for filing such a claim. Claims against County that are subject to this Section shall comply with all procedures set forth in the California Government Code concerning claims against public entities.

33.18 Consistency with Public Contract Code Sections 9204 and 20104 et seq. If any Claim arising under this Contract is subject to the provisions of Public Contract Code Sections 9204 or 20104 et seq. (Div. 2, Part 3, Chapter 1, Article 1.5), and if provisions of that Article require a procedure or procedural element different from that established in this Contract, then the provisions of that Article shall apply in place of the conflicting procedure or procedural element established herein.