

DOCUMENT 00 5201

AGREEMENT

THIS AGREEMENT, dated this 8<sup>th</sup> day of May 2018, is by and between Truebeck Construction, Inc., whose place of business is located at 201 Redwood Shores Parkway, Ste. 125, Redwood City, CA 94065, and the County of San Mateo (Owner), a county established under the laws of the State of California.

WHEREAS, Owner, by its **Resolution No.075846** adopted on the 24th day of April 2018 (a copy of which is attached and part of this Agreement), awarded to CMR the following contract:

**SAN MATEO HEALTH SYSTEM CAMPUS UPGRADE PROJECT**

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth, CMR and Owner agree as follows:

**ARTICLE I - WORK OF THE CONTRACT AND CONTRACT SUM**

**1.01. Work of the Contract**

- A. CMR shall complete all Work specified in the Contract Documents, including without limitation, the Specifications, Drawings, Document 01 1000 (Summary) and all other terms and conditions of the Contract Documents (**Work**).

**1.02. Contract Sum**

- A. Owner shall pay CMR the amounts indicated in paragraphs 1.03 and 1.04 below (together, **Contract Sum**) for completion of Work in accordance with Contract Documents and (as applicable) as set forth in CMR's Proposal (Document 00 4001 [Proposal Price Form]), attached hereto.
- B. The Contract Sum includes all allowances (if any).

**1.03. Pre-Construction (Phase I) Portion of Contract Sum**

- A. Cost Item 1. Owner shall pay CMR \$627,718, the amount indicated for Proposal Item 1 (Pre-Construction Services) for completion of all pre-construction (**Phase I**) services for the Project. The Cost Item 1 amount reflects full compensation for all CMR Phase I costs, expenses, fee, profit, general conditions, general requirements, bonds and insurance and overhead, and any other Phase I services and work.

**1.04. Construction (Phase II) Portion of Contract Sum**

- A. After all trade subcontracts have been procured, a Final Guaranteed Maximum Price (GMP) shall be established as provided in this Document and that shall be the sum of Cost Items 1 through 7 herein. The Final GMP shall be treated as the Contract Sum and shall be inclusive of all Work of the Contract Documents.
- B. The Construction (Phase II) portion of Contract Sum will be payable progressively based upon progressive work, as set forth in the Contract Documents, commencing only following issuance of Document 00 5501-B (Notice to Proceed for Construction).



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- C. Owner shall pay CMR for completion of all construction (**Phase II**) work, as total compensation, amounts in Cost Items 2 through 6 described in the Contract Documents (including Section 01 1000 Summary and its appendices and exhibits) as follows.
1. Cost Item 2. An amount equal to the percentage for CMR Fee identified in CMR's Proposal Form (Proposal Cost Item 2) (**CMR Fee**) multiplied by the sum of Cost Items 3, 4 and 5 below, in full compensation for CMR's construction phase fee and profit.
  2. Cost Item 3. The specified dollar amount in CMR's Proposal Form for CMR General Conditions (**CMR GC's**) \$3,878,752, in full compensation for CMR's construction phase general conditions and related overhead.
  3. Cost Item 4. General Requirements identified in the CMR's Proposal Form Proposal Cost Item 4 (**CMR GR**), in full compensation for CMR's construction phase general requirements provided in 2 groups:
    - a. GR 1 – Not-to-Exceed price provided in the Proposal for the General Requirements items listed in Appendix B of Document 00 4001; and
    - b. GR 2 – Price to be determined and solicited for bidding during subcontractors buy-out in Phase 1 for the General Requirement Items listed Appendix B of Document 00 4001.
  4. Cost Item 5. The aggregate total cost of the work of trades to be bid open book by CMR and authorized self-perform subtrade work at the amount agreed to; actual bid amounts awarded shall be used to determine Final GMP. Determination of this Cost Item based upon trade bids is provided in Article VII below.
  5. Cost Item 6. An amount equal to **three (3) %** of Cost Item 5 (**Contingency**). Contingency is subject to adjustment as provided herein.
  6. Cost Item 7. An amount equal to the percentage for Bonds, Insurance and Taxes identified in CMR's Proposal Form Proposal Cost Item 7 (**Bonds, Insurance and Taxes**), in full compensation for bonds, insurance and taxes as required per Document 00 6113.12, Document 00 6113.18 and Document 00 7311.

**1.05. Administration of Cost Item 6, Contingency; Shared Savings.**

- A. Contingency (Cost Item 6) amount will be administered by Owner and expended only for "preventable" changes and/or extra costs as defined in this paragraph 1.05, up to but not over the amount of the contingency (and any such costs over the amount of the contingency shall not be reimbursed). CMR accepts the risk of preventable changes and/or extra costs exceeding the contingency.
- B. Preventable changes and extra costs are those that CMR could have prevented by proper performance of its Phase I services under Document 00 5251 (Pre-Construction and CMR Services), such as, for example, and not by way of limitation, constructability and coordination issues or reasonably foreseeable equipment/material replacements and substitutions. CMR may be entitled to charge preventable direct costs of construction (plus overhead and profit markup) to contingency in the same manner as Change Orders under Document 01 2600 (Contract Modification Procedures), by moving such amounts from Contingency (Cost Item 6) to Cost Items 3, 4 and 5, as applicable, including direct costs that were incurred as a consequence of CMR's ordinarily negligent errors and omissions; however, CMR may not charge any costs against Contingency which were incurred due to CMR's gross negligence or intentional misconduct, or any for rework of defective work.



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- C. Non-preventable changes and extra costs are those CMR could not have prevented by proper performance of its Phase I services under Document 00 5251, such as, for example, and not by way of limitation, Owner elective changes adding additional scope or changes in legal requirements. Non-preventable Change Orders will not be recognized as a cost under the contingency, but rather, may be recognized as Change Orders that increase the Contract Sum and/or a Cost Item therein.
  - D. Costs may not be charged to contingency, however, if such costs are either (i) within the scope of work of the plans and specifications on which the proposal was submitted or subcontract packages awarded, or (ii) included within the scope of Cost Items 1 (Pre-Construction Services), 3 (CMR GC's) or 4 (CMR GR's). On completion of Contract, 40% of unspent contingency shall be paid to CMR; the remaining 60% of contingency shall be retained by Owner; and Contract Sum will be adjusted accordingly.
- 1.06. No Duplication.** There shall be no duplication of costs or expenses among Cost Items. Duplication is subject to correction whenever discovered. Contractor shall compare carefully its scope of work with the scope of work of trade subcontractors and monitor the work to assure that duplication does not occur, for example, and not by way of limitation, in costs of cleanup, document management, modeling, bonds, mock-ups, and supervision.

**1.07. Updates and Final Confirmation of Contract Sum**

- A. Following bid/award of all trade subcontracts and agreements to self-perform subtrade work for Project Component Group A into the Contract, Owner and CMR shall complete and execute a change order in form of Appendix A (Calculation of CMR's Contract Sum – Project Group A) to memorialize the Contract Sum up to that point.
- B. Following bid/award of all trade subcontracts and agreements to self-perform subtrade work for Project Component Group B into the Contract, Owner and CMR shall complete and execute a change order in form of Appendix B (Calculation of CMR's Contract Sum – Project Group A-B) up to that point.
- C. Following bid/award of all remaining trade subcontracts and agreements to self-perform subtrade work for Project Component Group C into the Contract, Owner and CMR shall complete and execute a change order in form of Appendix C (Calculation of CMR's Total Contract Sum – Project Group A-C) to this Document 00 5201 to memorialize the final Contract Sum as described above.

**ARTICLE II - CONTRACT TIME; COMMENCEMENT AND COMPLETION OF WORK**

**2.01. Phase I – Pre-Construction Phase**

- A. CMR shall commence pre-construction (Phase I) services pursuant to Document 00 5251 on the date indicated in Document 00 5501-A (Notice to Proceed for Pre-Construction Services) (**Phase I Commencement Date**).
- B. CMR shall achieve Substantial Completion of Phase I within two hundred-eighty (280) calendar days from the Phase I Commencement Date, subject to extension only as provided in Document 00 5251. Additional one hundred-fifty (150) calendar days shall be required for subs buyout for Project Component Group C. Phase 1 services will be performed in following sequence:  
Part 1:  
Anticipated Start Date – April 24, 2018  
Anticipated Completion Date – January 25, 2019  
Part 2 (Project Component Group C for subs buyout only):  
Anticipated Start Date – January 7, 2020  
Anticipated Completion Date – June 9, 2020

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- C. Owner reserves the right to modify or alter the Phase I Commencement Date.

**2.02. Phase II – Construction Phase– Project Component Group A**

- A. CMR shall commence the construction (Phase II) work for Project Component Group A on the date indicated in Document 00 5501-B (Notice to Proceed for Construction – Project Component Group A). (**Phase II Group A Commencement Date**).
- B. CMR shall achieve Substantial Completion of the Project Components Group A Work three hundred-twenty (320) calendar days from the Group A Phase II Commencement Date.
- C. CMR shall achieve Final Completion of the Project Components Group A Work three hundred-fifty (350) calendar days from the Group A Phase II Commencement Date.

**2.03. Phase II – Construction– Project Component Group B**

- A. CMR shall commence the construction (Phase II) work for Project Component Group B on the date indicated in Document 00 5501-B (Notice to Proceed for Construction – Project Component Group B). (**Phase II Group B Commencement Date**).
- B. CMR shall achieve Substantial Completion of the Project Components Group B Work four hundred-twenty (420) calendar days from the Group B Phase II Commencement Date.
- C. CMR shall achieve Final Completion of the Project Components Group B Work four hundred-sixty (460) calendar days from the Group B Phase II Commencement Date.

**2.04. Phase II – Construction– Project Component Group C**

- A. CMR shall commence the construction (Phase II) work for Project Component Group C on the date indicated in Document 00 5501-B (Notice to Proceed for Construction – Project Component Group C). (**Phase II Group C Commencement Date**).
- B. CMR shall achieve Substantial Completion of the Project Components Group C Work five hundred twenty-five (525) calendar days from the Group C Phase II Commencement Date.
- C. CMR shall achieve Final Completion of the Project Components Group C Work five hundred twenty-five (550) calendar days from the Group C Phase II Commencement Date.

**2.05. General Matters**

- A. Conditions to Owner's issuance of Document 00 5501-A (Notice to Proceed for Pre-Construction Services) include all matters described in Document 00 5105 (Notice of Award), and such other matters as Owner may reasonably request.
- B. Conditions to Owner's issuance of Document 00 5501-B (Notice to Proceed for Construction), to be issued for each Project Component Group, include the following, which Owner may waive or modify in its sole discretion:
  - 1. CMR has satisfactorily completed all pre-construction phase services required by Document 00 5251 (Pre-Construction and CMR Services), or a portion of those services as required by Owner for the particular Project Component Group.

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2. CMR has awarded all trade subcontracts and self-perform subtrade work contracts required to execute the Phase II work of the Contract Documents for the particular Project Component Group.
  3. CMR has provided evidence of all insurance, bonds and bond amounts required by Contract Documents for construction.
- C. Owner reserves the right to modify or alter the Phase I Commencement Date or any Phase II Commencement Date in its sole discretion.

**ARTICLE III - PROJECT REPRESENTATIVES**

**3.01. Owner's Project Manager**

- A. The San Mateo County Board of Supervisors has designated Deborah Bazan, Director of Project Development Unit to act as Owner's Representative in all matters relating to the Contract Documents. Project Development Unit has designated Paul Hundal as the its Project Manager for the Project.
- B. To the extent Board of Supervisors approval is not required, the director of Project Development Unit or his/her designee shall have authority over various matters pertaining to the Contract Documents and shall have sole authority to modify the Contract Documents on behalf of Owner, to accept work, and to make decisions or actions binding on Owner, and shall have sole signature authority on behalf of Owner, subject however to the limits in the Public Contract Code sections 20137 and 20142, as stated in Document 00 7200, and limits supplied by law and County policies.
- C. Owner may assign all or part of the Project Manager's rights, responsibilities and duties to a Construction Manager, or other Owner Representative, or change the Project Manager, Construction Manager or other Owner Representative at any time.

**3.02. CMR's Project Manager**

- A. CMR has designated ~~Mike [unclear]~~ <sup>TOP FILE</sup> (George A) Jim Skandberg (George B, C) as its Project Manager to act as CMR's Representative in all matters relating to the Contract Documents. CMR's Project Manager must be approved in writing by the Owner prior to execution of this Agreement.
- B. CMR may not change the identity of its Project Manager or any other Key Personnel without prior Owner written approval, which approval shall not be unreasonably withheld, provided such replacement has similar or greater experience and qualifications.

**3.03. Architect/Engineer**

- A. Taylor Design will furnish the Plans and Specifications and shall have the rights assigned to Architect/Engineer in the Contract Documents.

**ARTICLE IV - TERMS, CONDITIONS AND SCOPE OF LIMITATIONS ON DELAY DAMAGES**

**4.01. Identification and Limitation on Delay Damages.**

- A. Owner and CMR recognize that time is of the essence of this Contract and that both Owner and CMR (including Subcontractors) will suffer financial loss in the form of contract administration expenses (including without limitations extended General Conditions, General Requirements, Fee, lost profit, lost opportunities, consequences to bonding costs for CMR; and disruption, extended project management and consultant expenses, interest expense, and loss of revenues, damages to third parties and costs of substitute facilities for Owner) (collectively, **delay damages**), if all or



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any part of the Work is not completed within the times specified above, plus any extensions thereof allowed in accordance with the Contract Documents.

- B. Except as otherwise expressly provided in this Document 00 5201 (Agreement), Owner and CMR (including Subcontractors) agree that neither shall have the right to recover such defined delay damages against the other during the first six months (180 days) of any delay, other than Owner's liquidated damages for delay.
- C. Consistent with Public Contract Code 7203, delay damages are liquidated as follows:
  - 1. Project Components Group A Liquidated Damages
    - a. Owner's liquidated damages during the first Ninety (90) days of the delay period attributable to CMR, shall be the amount of \$2500 per day.
    - b. Following the first Ninety (90) days of delay due to any party, starting on day 91 Owner's liquidated damages shall be **\$5,000 per day**
  - 2. Project Components Group B and Group C Liquidated Damages
    - a. Owner's liquidated damages during the first Ninety (90) days of the delay period attributable to CMR, shall be the amount of \$1,000 per day.
    - b. Following the first Ninety (90) days of delay due to any party, starting on day 91 Owner's liquidated damages shall be **\$5,000 per day**
- D. Measures of liquidated damages shall apply cumulatively.

**4.02. Delays Covered.** This mutual waiver and limit to liquidated damages includes delay damages resulting from delays which in turn result from ordinary, alleged breaches of contract; or errors, omissions, or alleged defects in the design; and force majeure events. Such delays include:

- A. CMR failure to achieve Substantial Completion or Final Completion of any portion of the Work within the times required in the Contract Documents, plus any permitted extensions;
- B. Owner's failure to respond to any CMR inquiry, submittal or other request in a timely manner;
- C. Delays caused by any expected construction interruptions, specifically activities of OSHPD, inspections, rejection of work and rework;
- D. Delays caused by any differing site conditions (including hazardous waste or undisclosed Underground Facility), such as those contemplated in Document 00 7200 (General Conditions);
- E. Errors or omissions amounting to ordinary negligence, including without limitation CMR negligence in performing its Pre-Construction Services, or errors or omissions in any Drawings or Specifications; and
- F. Delays resulting from forces and/or causes beyond the reasonable control of Owner, CMR or any Subcontractor, including without limitation force majeure events, Acts of God, disruptions in supply and other unexpected difficulties in the progress of the Work.

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**4.03. Subcontractor Consent.** Subcontractors must expressly agree to be bound to this Article IV, to the extent of their scope of Work. Under no circumstances may any Subcontractor make a claim against Owner for delay damages suffered by a Subcontractor. To the extent that this Document 00 5201 (Agreement) otherwise expressly entitles Subcontractors to receive delay damages, all Subcontractor claims for delay damages (i) must be prosecuted through CMR as provided in Document 00 7200 (General Conditions) and (ii) are subject to all limitations and waivers otherwise contained in this Document 00 5201 and the other Contract Documents.

**4.04. Exclusions.** The foregoing mutual waiver of delay damages excludes the following:

- A. Any damages arising from or relating to personal injury, death, defective work, property damage, or to the extent covered by insurance maintained by Owner, CMR or any Subcontractor.
- B. Any damages resulting from CMR's or any Subcontractor's failure to maintain the minimum staffing levels required to prosecute the Work with reasonable diligence, defective work or failure to remedy defective work.
- C. Any damages resulting from any party's gross negligence or intentional misconduct.
- D. Any delay damages otherwise payable under paragraph 4.01 above; provided that under no circumstance shall Owner, CMR or any Subcontractor be paid twice for the same delay damages.
- E. Indemnity or defense obligations under Contract Documents.
- F. Under no circumstances may this mutual waiver be construed to limit liability for any damages covered by insurance maintained by Owner, CMR or any Subcontractor, to the extent of such coverage available and recovered after exercise of reasonable efforts.

**ARTICLE V - NOT USED**

**ARTICLE VI - CONTRACT DOCUMENTS**

**6.01.** The Contract Documents which comprise the entire agreement between Owner and CMR concerning the Work consist of the following documents, including all changes, Addenda, and Modifications thereto as listed on Document 00 0111 Table of Contents:

Document 00 4001	Proposal Price Form
Document 00 4820	Proposer Certifications
Document 00 5201	Agreement
Document 00 5251	Pre-Construction and CMR Services
Document 00 5501-A	Notice to Proceed for Pre-Construction Services
Document 00 5501-B	Notice to Proceed for Construction
Document 00 6113.12	Construction Performance Bond
Document 00 6113.18	Construction Labor and Material Payment Bond
Document 00 6301	Guaranty
Document 00 6530	Agreement and Release of Any and All Claims
Document 00 6600	Substitution Request Form
Document 00 6801	Escrow Agreement for Security Deposit in Lieu of Retention
Document 00 7200	General Conditions
Document 00 7301	Supplementary General Conditions – CMR Items
Document 00 7311	Insurance and Indemnification
Document 00 7315	Naturally Occurring Asbestos [If Applicable]
Document 00 7321	Requirements for OSHPD Reviewed Projects
Document 00 7380	Apprenticeship Program
Document 00 9111	Addenda

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Specifications	Division 01 Sections identified in Document 01 0111 Table of Contents.
Specifications	Division 02 through 33 to be developed in conjunction with scope definition work as described in Document 00 5251.
Drawings	Drawings, Tables and Schedules to be completed for bidding, to be developed in conjunction with scope definition work as described in Document 00 5251

- 6.02.** Part of the scope of CMR's Pre-Construction Services work is to identify, clarify, and define the scope of the multiple Permit Packages that constitute the Project, as described further in Document 00 5251 (Pre-Construction and CMR Services).
- 6.03.** There are no Contract Documents other than those listed above in this Article VI. Document 00 3020 Geotechnical Data and Existing Conditions and Document 00 3124 Hazardous Materials Surveys (if included) and the information supplied through those documents, are not Contract Documents and describe conditions of construction only. The Contract Documents may only be amended, modified or supplemented as provided in Document 00 7200 General Conditions.

**ARTICLE VII - TRADE SUBCONTRACTOR BIDDING AND BONDS; FINAL GMP**

- 7.01.** After award of this Contract, CMR shall commence performing Services as outlined in Document 00 5251. No later than at the end of performance of the Services outlined in Document 00 5251, and earlier if requested by Owner, CMR shall prepare the packages for bidding or otherwise procuring separate trade subcontracts.
- 7.02.** The subcontracts shall be bid open book, with Owner having reasonable review and clarification rights regarding scope, terms and conditions, to complete the work of the Contract Documents and guard against prejudice of Owner's rights under the Contract Documents. Subcontracts and subcontractor bidding shall comply with all public contracting requirements applicable to the County of San Mateo, including without limitation, the following requirements:
- A. CMR shall provide public notice of the availability of work to be subcontracted in accordance with the publication requirements applicable to the competitive bidding process of Owner and the Subcontractor and Subletting Fair Practices Act.
  - B. CMR shall provide a fixed date and time on which the subcontracted work will be awarded.
  - C. In any contract between CMR and any trade subcontractor, or any contract between a trade subcontractor and a subcontractor thereunder, the percentage of the retention proceeds withheld may not exceed the percentage specified in the contract between Owner and CMR. If the CMR provides written notice to any trade subcontractor or subcontractor thereunder that is not a member of the CMR entity, prior to or at the time the bid is requested, that a bond may be required and the subcontractor subsequently is unable or refuses to furnish a bond to the CMR, then the CMR may withhold retention proceeds in excess of the percentage specified in the contract between Owner and CMR from any payment made by the CMR to the trade subcontractor or subcontractor thereunder.
  - D. CMR shall award subcontracts to the low, responsive and responsible trade bidder for each trade package.
- 7.03.** CMR's contract value will increase by the amount of each trade subcontract and authorized self-perform subtrade work, and at the completion of trade subcontract bidding, the amount of all trade subcontracts (Aggregate Trade Subcontract and Self-Perform Cost) will be

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utilized to establish a Final GMP. The Aggregate Trade Subcontract and Self-Perform Cost shall be administered as Cost Item 5.

- 7.04.** Subcontracts bid shall encompass a complete buy out of construction Work and the Final GMP calculated at the completion of subcontractor bidding for Project Component Group C shall be a final GMP for the entire Work of the Contract Documents. CMR shall not include duplicate scope in any Cost Item or trade subcontract and if such is discovered subsequently then CMR shall so notify Owner for calculation and implementation of the appropriate deductive change order for the value of any such duplication.
- 7.05.** As a condition to the NTP for Phase 2 and as a material term of this Contract, CMR shall provide a performance bond and a payment bond in the forms provided in the Contract Documents as Document 00 6113.12 (Construction Performance Bond) and Document 00 6113.18 (Construction Labor and Material Payment Bond). Such Bonds shall be in the penal sum of the Final GMP.
- 7.06.** Except as otherwise provided in this Article VII or upon written consent of Owner, CMR shall not assign any portion of the Contract Documents, and may subcontract portions of the Contract Documents only in compliance with the Subcontractor Listing Law, California Public Contract Code § 4100 *et seq.*
- 7.07.** Owner shall retain the right in its reasonable discretion, and without additional compensation to CMR, to bid subcontracts in its name and to assign and novate such subcontracts to CMR, subject to the same terms and conditions herein as CMR-bid subcontractors.

**ARTICLE VIII - MISCELLANEOUS**

- 8.01.** Terms and abbreviations used in this Agreement are defined in Document 00 7200 (General Conditions) and Document 01 4200 (References and Definitions) and will have the meaning indicated therein.
- 8.02.** It is understood and agreed that in no instance are the persons signing this Agreement for or on behalf of Owner or acting as an employee, agent, or representative of Owner, 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 Owner is limited and confined to such liability as authorized or imposed by the Contract Documents or applicable law.
- 8.03.** In entering into a public works contract or a subcontract to supply goods, services or materials pursuant to a public works contract, CMR 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 Owner tenders final payment to CMR, without further acknowledgment by the parties.
- 8.04.** 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 Owner'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. CMR 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



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the provisions of that Code, and CMR shall comply with such provisions before commencing the performance of the Work of the Contract Documents.

- 8.05. In order to induce Owner to enter into this Agreement, CMR 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 CMR is duly qualified to conduct business in the State of California; that CMR has duly authorized the execution, delivery and performance of this Agreement, the other Contract Documents, and 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 CMR.
- 8.06. CMR shall not assign any portion of the Contract Documents.
- 8.07. This Agreement and the Contract Documents shall be deemed to have been entered into in the City of Redwood City, County of San Mateo, 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 San Mateo.

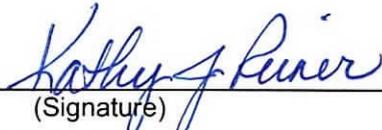
IN WITNESS WHEREOF the parties have executed this Agreement in quadruplicate the day and year first above written.

**CONSTRUCTION MANAGER AT RISK:**

[CMR'S NAME] Truebeek Construction, Inc

By:   
(Signature)

Its: Vice President, Operations  
Title (If Corporation: Chairman, President or Vice President)

By:   
(Signature)

Its: CFO, Secretary  
Title (If Corporation: Secretary, Assistant Secretary, Chief Financial Officer or Assistant Treasurer)

**OWNER:**

**COUNTY OF SAN MATEO**

 5/30/18  
Director, Project Development Unit

**END OF DOCUMENT 00 5201**



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**Appendix A**

**CALCULATION OF CONTRACT SUM – PROJECT GROUP A  
[See Paragraph 1.06 above]**

<b><u>Cost Item</u></b>	<b><u>Item</u></b>	<b><u>Amount (\$)</u></b>
<b><u>No.</u></b>		
		\$ 627,718
1.	Pre-Construction Services	(Remain same as base contract)
2.	CMR Fee	\$ _____
3.	CMR General Conditions	\$ 3,878,752
		(Remain same as base contract)
4.	CMR General Requirements*	
	GR 1 (Not-to-Exceed)	GR 1 \$ 2,076,846
	GR 2 (To be solicited for bids during subcontractors buy-out in Phase 1)	GR 2 \$ _____
5.	Full bid/award value of all trade subcontracts to be bid open book by CMR and agreed value of all authorized self-perform subtrade work**	\$ _____
6.	Contingency (3% of the Direct Cost of Construction)	\$ 2,100,000
7.	Bonds, Insurance and Taxes	\$ _____
	<b>CONTRACT SUM PROJECT GROUP A**</b>	<b>\$ _____</b>

\* See Document 00 4001 Appendix B for the CMR General Requirements 1 and 2.

\*\* Subject to any Trade Subcontractor adjustments as provided in Article VII above.

**END OF APPENDIX A**

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**Appendix B**

**CALCULATION OF CONTRACT SUM – PROJECT GROUP A+B  
[See Paragraph 1.06 above]**

<b><u>Cost Item</u></b>	<b><u>Item</u></b>	<b><u>Amount (\$)</u></b>
<b><u>No.</u></b>		
1.	Pre-Construction Services	\$ 627,718 (Remain same as base contract)
2.	CMR Fee	\$ _____
3.	CMR General Conditions	\$ 3,878,752 (Remain same as base contract)
4.	CMR General Requirements*	
	GR 1 (Not-to-Exceed)	GR 1 \$ 2,076,846
	GR 2 (To be solicited for bids during subcontractors buy-out in Phase 1)	GR 2 \$ _____
5.	Full bid/award value of all trade subcontracts to be bid open book by CMR and agreed value of all authorized self-perform subtrade work**	\$ _____
6.	Contingency (3% of the Direct Cost of Construction)	\$ 2,100,000
7.	Bonds, Insurance and Taxes	\$ _____
<b>CONTRACT SUM PROJECT GROUP A+B**</b>		<b>\$ _____</b>

\* See Document 00 4001 Appendix B for the CMR General Requirements 1 and 2.

\*\* Subject to any Trade Subcontractor adjustments as provided in Article VII above.

**END OF APPENDIX B**

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**Appendix C**

**CALCULATION OF FINAL CONTRACT SUM (GMP) – PROJECT GROUP A+B+C  
[See Paragraph 1.06 above]**

<b><u>Cost Item</u></b>	<b><u>Item</u></b>	<b><u>Amount (\$)</u></b>
<b><u>No.</u></b>		
1.	Pre-Construction Services	\$ 627,718 (Remain same as base contract)
2.	CMR Fee	\$ _____
3.	CMR General Conditions*	\$ 3,878,752 (Remain same as base contract)
4.	CMR General Requirements	
	GR 1 (Not-to-Exceed)	GR 1 \$ 2,076,846
	GR 2 (To be solicited for bids during subcontractors buy-out in Phase 1)	GR 2 \$ _____
5.	Full bid/award value of all trade subcontracts to be bid open book by CMR and agreed value of all authorized self-perform subtrade work**	\$ _____
6.	Contingency (3% of the Direct Cost of Construction)	\$ 2,100,000
7.	Bonds, Insurance and Taxes	\$ _____
	<b>CONTRACT SUM PROJECT GROUP A+B+C (GMP)**</b>	<b>\$ _____</b>

\* See Document 00 4001 Appendix B for the CMR General Requirements 1 and 2.  
\*\* Subject to any Trade Subcontractor adjustments as provided in Article VII above.

**END OF APPENDIX C**

**San Mateo County – Project Development Unit  
San Mateo Health System Campus Upgrade Project**

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**Appendix D**

**TRADE SUBCONTRACTORS LIST**

Prepared by Owner on \_\_\_\_\_, 20\_\_.

**END OF APPENDIX D**

**San Mateo County – Project Development Unit  
San Mateo Health System Campus Upgrade Project**

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DOCUMENT 00 4001

**PROPOSAL PRICE FORM  
TO THE COUNTY OF SAN MATEO PROJECT DEVELOPMENT UNIT**

THIS PROPOSAL IS SUBMITTED BY:

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**Truebeck Construction, Inc.**

Re: **NEW COUNTY OFFICE BUILDING AND PARKING STRUCTURE PROJECT**

1. The undersigned Proposer proposes and agrees, if this Proposal is accepted, to enter into an agreement with SAN MATEO COUNTY (Owner) in the form included in the Contract Documents, including Document 00 5201 (Agreement), to perform and furnish all Work as specified or indicated in the Contract Documents for the Contract Sum and within the Contract Time indicated in this Proposal and in accordance with all other terms and conditions of the Contract Documents.
2. Proposer accepts all of the terms and conditions of the Contract Documents, Document 00 1001 (Notice Inviting Proposals), and Document 00 2001 (Instructions for Proposals). This Proposal will remain subject to acceptance for Ninety (90) Days after Proposal opening.
3. In submitting this Proposal, Proposer represents that Proposer has examined all of the Contract Documents, performed all required Pre-Proposal Review, received the Pre-Proposal conference minutes (if any), and received the following Addenda:

<b>Addendum Number</b>	<b>Addendum Date</b>	<b>Signature of Proposer</b>
Addendum #01	February 27, 2018	
Addendum #02	March 12, 2018	
Addendum #03	March 19, 2018	
Addendum #04	March 26, 2018	

4. Based on the foregoing, Proposer proposes and agrees to fully perform the Work within the time stated and in strict accordance with the Contract Documents for the following sums of money listed in the following Schedule of Proposal Prices:

**SCHEDULE OF PROPOSAL PRICES**

<b>NO.</b>	<b>COST ITEM<sup>D</sup></b>	<b>TYPE</b>	<b>PERCENT<sup>C</sup></b>	<b>DOLLAR AMOUNT<sup>A</sup></b>
1	Pre-Construction Services	Lump Sum	0.90%	\$ 627,718.00
2	CMR Fee	Percent	3.25%	\$ 2,275,000.00
3	CMR General Conditions (GC)		5.54%	\$ 3,878,752.00
4	CMR General Requirements <sup>B</sup> - GR 1 only (GR 2 is part of Direct Cost of Construction to be determined during Phase 1)	Not-to-Exceed	2.97%	\$ 2,076,846.00
5	Direct Cost of Construction	Lump Sum	TBD (not req'd in this Proposal)	Aggregate Total Cost of the Work of Sub-Trades including self-performing work to be determined at Buy-out during Phase 1
6	Contingency	Percent	3.00%	To be determined based on the Final GMP at completion of Phase 1
7	Bonds & CCIP Insurance; Taxes (see note E)	Percent	3.091%	\$ 2,163,700.00
<b>Total Proposal Price (Sum of Cost Items 1, 2,3, 4 and 7)</b>				<b>\$ 11,022,016.00</b>

Total Project Proposal Price:

(Words)

Notes:

- A. Hourly rates for all services necessary to complete Cost Items 1 (Pre-Construction Services), 3 (CMR General Conditions), and 4 (CMR General Requirements) shall be submitted with the Proposal in Appendix A to this Document 00 4001. The reasonableness of these hourly rates will be considered in assessing the Price. These rates will be the basis for compensation of additional/extended hours requested by the Owner for these specific services during the course of this Contract.
  - B. Proposers to submit Not-to-Exceed cost for General Requirement 1 (GR 1) as identified in the Appendix B to this Document 00 4001. General Requirement 2 (GR 2) shall be determined and solicited for bidding during subcontractors buy-out in Phase 1.
  - C. For Proposing purposes for Cost Items 1 3 and 4, percentage shall be *calculated* based on the entered Lump Sum/NTE price against the estimated Direct Cost of Construction of approximately \$70 million. The reasonableness of the percentages will be considered in assessing the Price. The percentage for Cost Item 2 shall be used for determining the actual total CMR Fee after bids for all trades are received.
  - D. Proposals should be made with the presumption that CMR will not be authorized to self-perform subtrade work. See Document 00 7301 Supplementary General Conditions.
- E. Note: Price in form above includes Bond, CCIP Insurance, & Builders Risk. Builders Risk costs may need to be adjusted once the GMP is developed and the value of each building is better known, as well as scopes such as earth movement are finalized. "Taxes" are assumed to be sales taxes and will be charged where they are charged on all construction projects (in cost of work for subcontractor work).

**San Mateo County – Project Development Unit  
San Mateo Health System Campus Upgrade Project**

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- B. Proposers to submit Not-to-Exceed cost for General Requirement 1 (GR 1) as identified in the Appendix B to this Document 00 4001. General Requirement 2 (GR 2) shall be determined and solicited for bidding during subcontractors buy-out in Phase 1,
- C. For Proposing purposes for Cost Items 1 3 and 4, percentage shall be *calculated* based on the entered Lump Sum/NTE price against the estimated Direct Cost of Construction of approximately \$70 million. The reasonableness of the percentages will be considered in assessing the Price. The percentage for Cost Item 2 shall be used for determining the actual total CMR Fee after bids for all trades are received.
- D. Proposals should be made with the presumption that CMR will not be authorized to self-perform subtrade work. See Document 00 7301 Supplementary General Conditions.

- 5. The undersigned Proposer acknowledges that the ~~cost-estimated~~ Direct Cost of eConstruction estimate provided herein is for Proposing purposes only, that Owner does not warrant the final accuracy of the estimate, and that the undersigned Proposer must make its own independent verification of estimated costs.
- 6. The undersigned acknowledges that the Best Value Proposer will be determined as provided in Document 00 2001 (Instruction for Proposals).
- 7. The undersigned Proposer understands that Owner reserves the right to reject this Proposal, or all Proposals, in its sole discretion without compensation to Proposer.
- 8. If written notice of the acceptance of this Proposal, hereinafter referred to as Notice of Award, is mailed or delivered to the undersigned Proposer within the time described in Paragraph 2 of this Document 00 4001 or at any other time thereafter before it is withdrawn, the undersigned Proposer will execute and deliver the documents required by Document 00 2001 (Instructions for Proposals) within the time specified therein.
- 9. Notice of Award or request for additional information may be addressed to the undersigned Proposer at the address set forth below.
- 10. The undersigned Proposer agrees to commence Work under the Contract Documents on the date(s) established in Document 00 7200 (General Conditions) and to complete all Work within the time(s) specified in Document 00 5201 (Agreement).
- 11. The undersigned Proposer agrees that, in accordance with Document 00 7200 (General Conditions), liquidated damages for failure to complete Work in the Contract (or portions thereof) within the time(s) specified in Document 00 5201 (Agreement) shall be as set forth in Document 00 5201.
- 12. The names of all persons interested in the foregoing Proposal as principals are:

**IMPORTANT NOTICE:**

If Proposer or other interested person is a corporation, give the legal name of corporation, state where incorporated, and names of president and secretary thereof; if a partnership, give name of the firm and names of all individual co-partners composing the firm; if Proposer or other interested person is an individual, give first and last names in full.

**NAME OF PROPOSER:**

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licensed in accordance with an act for the registration of Contractors, and with California license number: 903798 Expiration: 09/30/2019.

San Mateo, California

(Place of Incorporation, if Applicable)

Sean Truesdale, President

(Principal)

David Becker, CEO

(Principal)



**San Mateo County – Project Development Unit  
San Mateo Health System Campus Upgrade Project**

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(Area Code)

(Number)

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(Area Code)

(Number)

Date of Proposal:

March 30th, 2018

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**APPENDIX A - SCHEDULE OF RATES FOR PERSONNEL COSTS**

<b>Position</b>	<b>Staff Name</b>	<b>Cost per Hour*</b>
Principal in Charge	Sean Truesdale	\$335
Project Executive/Director	Dan Amigone	\$191
Operations Manager	Jeff Faulkner	\$211
Pre-construction Executive	Jim Murphy	\$191
Pre-construction Project Engineer	Leanna Mansour	\$98
Sr. Estimator	Caroll Moya	\$155
Sr. Cost Engineer	TBD	\$100
BIM Manager	Justin Porter	\$144
BIM Engineer	TBD	\$98
Scheduler	Steve Azzi	\$155
Sr. Project Manager	Mike Toftely	\$155
Project Manager	Jim Stromberg	\$130
Senior Superintendent	Neil Howry	\$195
Assistant Project Manager	N/A (Sr. P.E.)	
QA/QC	Ed Morales	\$155
Safety Specialist	Justin Harvey	\$129
Superintendent	Chris Jouglet	\$150
Sr. Project Engineer	Leanna Mansour	\$98
Field Engineer	Dina Estipona	\$88
Administrative Assistant	TBD	\$78
[Please add other position where applicable]		
[Please add other position where applicable]		

*\*Rates include CMR's direct costs, without overhead or profit included under Cost Item 2, for salaries and related forms of compensation and employer's costs (including worker's compensation insurance and any other insurance required by law) for labor and personnel costs, of CMR's employees, while performing Work at the Project Site.*

*\*Rates include weighted escalation through June of 2022*

**APPENDIX B - GENERAL REQUIREMENTS 1**

	<b>General Requirements 1 Job Site Temp Facilities, Utilities &amp; Cleaning</b>	<b>Cost of Work</b>	<b>GR1</b>	<b>Unit</b>	<b>Quantity</b>	<b>Unit Cost</b>	<b>Total</b>
1	Office Trailers (Including Inspectors / Owners)		X	Mo	39	8744	\$341,016
2	Storage Trailer & Tool Shed		X	Mo	39	2950	\$115,050
3	Office Furniture and Equip		X	Mo	39	4000	\$156,000
4	Reproductions/Copy Machine		X	Mo	39	3000	\$117,000
5	Postage/UPS/FedEx		X	Mo	39	1450	\$56,550
6	Project Photographs		X	Mo	39	3600	\$140,400
7	Temporary Toilets		X	Mo	39	900	\$35,100
8	Project Sign	X					
9	Telephone Installation	X					
10	Telephone Monthly Charges / Allowance	X					
11	Electric Power Installation	X					
12	Electric Power Monthly Charges / Allowance	X					
13	Water Service – Installation	X					
14	Water Service - Monthly Costs / Allowance	X					
15	Project Management Software	X					
16	Trailer Maintenance		X	Mo	39	1650	\$64,350
17	Daily Job Site Clean-Up		X	Mo	30	3464	\$103,920
18	Final Clean	X					
19	Dump Permits and Fees	X					
20	Trash Removal and Hauling	X					
21	Dust Control/Infection Control	X					
22	SWPP Installation & Maintenance	X					
23	SWPP Inspection	X					
24	Drinking Water/Cooler/Cup		X	Mo	39	2800	\$109,200
25	Safety/First Aid Supplies		X	LS	1	645500	\$646,280
26	Fire Equipment (Office Trailers and Site)		X	Mo	39	150	\$5,850
27	Site Security	X					
28	Designated Fire Watch	X					
	<b>GENERAL REQUIREMENTS 1 - NOT TO EXCEED SUBTOTAL</b>						<b>\$1,890,716</b>

**APPENDIX B - GENERAL REQUIREMENTS 2 (to be procured at a later time)**

	<b>General Requirements 2 Temporary Utilities, Cleaning &amp; Hoisting</b>		<b>GR2</b>	<b>Unit</b>	<b>Quantity</b>	<b>Unit Cost</b>	<b>Total</b>
1	Flagman and Traffic Control	X	TBD				
2	Temporary Road Construction	X	TBD				
3	Scaffolding	X	TBD				
4	Temporary Fencing and Enclosures	X	TBD				
5	Covered Walkways	X	TBD				
6	Barricades	X	TBD				
7	Temporary Stairs	X	TBD				
8	Opening Protection	X	TBD				
9	Safety Railing & Nets	X	TBD				
10	Temporary Road Maintenance	X	TBD				
11	Trash Chute & Hopper	X	TBD				
	<b>Hoisting</b>		<b>GR2</b>	<b>Unit</b>	<b>Quantity</b>	<b>Unit Cost</b>	<b>Total</b>
1	Hoist & Tower Rental	X	TBD				
2	Hoist Landing & Fronts	X	TBD				
3	Hoist Operator	X	TBD				
4	Hoist Material Skips/ Hoppers	X	TBD				
5	Erect & Dismantle Cranes and Hoists	X	TBD				
6	Crane Rental	X	TBD				
7	Crane Operators	X	TBD				
8	Crane Raising/ Jumping Costs	X	TBD				
9	Temporary Elevator Rental	X	TBD				
10	Elevator Operation Costs	X	TBD				
11	Cage Rider at Elevator	X	TBD				
12	Forklift Rental	X	TBD				
13	Forklift Operator	X	TBD				
14	Safety Inspections	X	TBD				
15	Fuel, Repairs, Maintenance, Service	X	TBD				

**RESOLUTION NO . 075846**

**BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA**

\* \* \* \* \*

**RESOLUTION AUTHORIZING THE DIRECTOR OF THE PROJECT DEVELOPMENT UNIT OR HIS/HER DESIGNEE TO EXECUTE: A) AN AGREEMENT FOR CONSTRUCTION MANAGER AT RISK SERVICES WITH TRUEBECK CONSTRUCTION INC. FOR THE MANAGEMENT OF CONSTRUCTION FOR THE SAN MATEO HEALTH SYSTEM CAMPUS UPGRADE PROJECT IN AN AMOUNT NOT TO EXCEED \$13,122,016; AND B) CONTRACT AMENDMENTS AND CHANGE ORDERS THAT WILL INCREASE THE COUNTY'S MAXIMUM FISCAL OBLIGATION BY NO MORE THAN \$1,312,202 OR 10% IN AGGREGATE AND/OR MODIFY THE CONTRACT TERM AND/OR SERVICES SO LONG AS IT DOES NOT CAUSE THE TOTAL COST OF CONSTRUCTION FOR THE SAN MATEO HEALTH SYSTEM CAMPUS UPGRADE PROJECT TO EXCEED THE CURRENT OR REVISED FISCAL PROVISIONS**

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**RESOLVED**, by the Board of Supervisors of the County of San Mateo, State of California, that

**WHEREAS**, the San Mateo Health Services building was built in 1952 and the adjacent Hospital Administration Building was built in 1954; and

**WHEREAS**, to consider the future of these aging facilities and future the campus where they sit, in February 2016, the County commissioned the Health System Master Plan Study; and

**WHEREAS**, following the study, it was determined that the 1952 building had outlived its useful life and should be demolished, and it was also determined that the County should direct funds to the modernization and improvement of the Health System Campus, rather than to the state-mandated seismic retrofitting of the out-of-date 1954 building; and

**WHEREAS**, following a March 28, 2017 Study Session, the Board authorized the construction of a new 70,000 SF non-OSHPD Hospital Administration Building, renovation of the Hospital Nursing Wing, and other campus improvements; and

**WHEREAS**, the Project will relocate approximately 300 County Staff from the heavily impacted Health System Campus to other new developments within the County including the new County Office Building 3; and

**WHEREAS**, a Request for Statements of Qualifications (RFSOQ) for Construction Manager at Risk Services for the San Mateo Health System Campus Upgrade Project was issued on November 8, 2017. Statements of Qualifications were received from four firms on December 18, 2017. All firms were qualified and placed on the short-list to receive the Request for Proposals (RFP) when released in February, 2018; and

**WHEREAS**, the RFP was issued to four qualified firms on February 14, 2018. Proposals from four firms were received on March 30, 2018. The selection committee made up of members of PDU, Health System, Board of Supervisors, and County Counsel reviewed the proposals and held interviews on April 9, 2018. The selection committee chose Truebeck Construction Inc. based in Redwood City, CA to enter into contract negotiations with for the Construction Manager at Risk service for the construction of the San Mateo Health System Campus Upgrade Project; and

**WHEREAS**, approval of these actions will contribute to the Shared Vision 2025 outcome of Collaborative and Safe Community by advancing this project that will provide regional benefits to San Mateo County residents; and

**WHEREAS,** The total cost of this agreement is included in the San Mateo Health System Campus Upgrade Project budget.

**NOW, THEREFORE, IT IS HEREBY DETERMINED AND ORDERED** that the Board of Supervisors authorizes the Director of the Project Development Unit or his/her designee to execute: (A) An agreement for Construction Manager At-Risk Services with Truebeck Construction for the management of construction for the San Mateo Health System Campus Upgrade Project in a an amount not to exceed \$13,122,016; and (B) Contract Amendments and Change Orders that will increase the County's maximum fiscal obligation by no more than \$1,312,202 or 10% in aggregate and/or modify the contract term and/or services so long as the modified term and/or services do not cause the total cost of construction for the San Mateo Health System Campus Upgrade Project to exceed the current or revised fiscal provisions.

\* \* \* \* \*

*Regularly passed and adopted this 24<sup>th</sup> day of April, 2018*

*AYES and in favor of said resolution:*

*Supervisors:* \_\_\_\_\_ *DAVE PINE*  
\_\_\_\_\_ *CAROLE GROOM*  
\_\_\_\_\_ *DON HORSLEY*  
\_\_\_\_\_ *WARREN SLOCUM*  
\_\_\_\_\_ *DAVID J. CANEPA*

*NOES and against said resolution:*

*Supervisors:* \_\_\_\_\_ *NONE*



\_\_\_\_\_  
*President, Board of Supervisors  
County of San Mateo  
State of California*

***Certificate of Delivery***

*I certify that a copy of the original resolution filed in the Office of the Clerk of the Board of Supervisors of San Mateo County has been delivered to the President of the Board of Supervisors.*



\_\_\_\_\_  
*Deputy Clerk of the Board of Supervisors*