

CITY OF CAPITOLA

SPECIAL PROJECT SPECIFICATIONS

FOR CONSTRUCTION OF

RECONSTRUCT STORM DAMAGED BIKE PATH AND SHOULDER ON PARK AVENUE

**FOR USE IN CONJUNCTION WITH
STATE OF CALIFORNIA, DEPARTMENT OF TRANSPORTATION
STANDARD SPECIFICATIONS AND STANDARD PLANS
DATED 2018 WITH MOST RECENT REVISIONS**

**BIDS OPEN:
WEDNESDAY, APRIL 29, 2020 AT 11:00 AM**

THIS IS A PREVAILING WAGE PROJECT

**DO NOT DETACH THE PROPOSAL FROM
THE SPECIAL PROJECT SPECIFICATIONS**



CITY OF CAPITOLA
420 Capitola Avenue
Capitola, CA 95010
(831) 475-7300 – Phone
(831) 479-8879 – Fax
www.cityofcapitola.org

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NOTICE TO CONTRACTORS

NOTICE INVITING SEALED PROPOSALS OR BIDS

NOTICE IS HEREBY GIVEN that the City Council of the City of Capitola, County of Santa Cruz, State of California, hereby invites sealed proposals or bids for the following work, all as more particularly and in detail set forth in those certain plans, specifications, and contract documents adopted therefore, copies of which are on file with the City of Capitola, County of Santa Cruz, State of California, to wit:

RECONSTRUCT STORM DAMAGED BIKE PATH AND SHOULDER ON PARK AVENUE

The plans, and specifications and contract documents may be examined and copies secured from the Director of Public Works, City Hall, 420 Capitola Avenue, Capitola, CA 95010 or accessible from the City's website <http://www.cityofcapitola.org>

No contractor or subcontractor shall be qualified to bid on, be listed in a bid proposal, or enter into any contract for public work, unless currently registered and qualified to perform public work pursuant to Labor Code section 1725.5. By submitting a bid or proposal to the City, Contractor is certifying that he or she has verified that all subcontractors used on this public work project are registered with the DIR in compliance with Labor Code sections 1771.1 and 1725.5, and Contractor shall provide proof of registration to the City.

In accordance with California Labor Code Section 1771, all workers engaged in performance of the specified contract work shall be paid not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the project is to be performed, including for holiday and overtime work as determined by the Director of Industrial Relations. Prevailing rate of per diem wages are available online at:

<http://www.dir.ca.gov/dlsr/DPreWageDetermination.htm>

This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

Notice is also hereby given that all bidders may submit, with their proposals or bids, a sworn statement of their financial responsibility, technical ability and experience. Such sworn statement may be required to be furnished before award is made to any particular bidders.

No sealed proposal or bid will be accepted from a contractor who has not been licensed in accordance with the provisions of Chapter 9, Division III of the Business and Professions Code, as amended. In addition, the project requires a valid California contractor's license for the following classification(s): California Class A or C-12 license(s). Bidders must provide satisfactory evidence of such license at the time of bid.

Each sealed proposal or bid shall be accompanied by a certified check, cashier's check or bidder's bond made payable to the order of the City of Capitola, for an amount not less than 10 percent of the amount of the proposal. The above-mentioned bid deposit shall be given as a guarantee that the bidder will enter into a contract, if awarded, and will be declared forfeited if the successful bidder refuses, or fails, to enter into said contract, and furnish required bonds within the time specified after being notified to do so by the City of Capitola.

All proposals for the above-mentioned work will be received by the City Council of the City of Capitola, County of Santa Cruz, State of California by

WEDNESDAY, APRIL 29, 2020 at 11:00 A.M.

at the City of Capitola, Capitola, California. All proposals shall be in sealed envelopes plainly endorsed:

RECONSTRUCT STORM DAMAGED BIKE PATH AND SHOULDER ON PARK AVENUE

Proposals/bids will be opened publicly and read aloud on WEDNESDAY, APRIL 29, 2020 at 11:00 A.M. at Capitola City Hall, 420 Capitola Avenue. Capitola, CA 95010.

The successful bidder will be required to furnish a Labor and Material Bond in the amount equal to 100 percent of the contract price, and a Faithful Performance Bond in an amount equal to 100 percent of the contract price, said bonds to be issued by a corporate surety company in the form approved by the City Attorney. The contractor will be allowed ten calendar days after she/he has received written notice that the contract has been awarded to him/her by the City Council within which to deliver the agreement with his/her signature affixed thereto, together with the completed aforementioned bonds and insurance certificates, to the Director of Public Works of the City of Capitola.

The City of Capitola reserves the right to reject any and all bids and waive any irregularity or minor defects in any proposal received. Unless otherwise required by law, no bidder may withdraw his/her bid for a period of thirty days after the date set for the opening thereof. Where possible, bids will be compared on the basis of the Engineer's estimate of the quantities of work to be performed.

The City of Capitola hereby notifies all bidders that it will affirmatively insure that in any agreement entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, sex, national origin, religion, age, or disability in consideration for an award.



INSTRUCTIONS TO BIDDERS

RECONSTRUCT STORM DAMAGED BIKE PATH AND SHOULDER ON PARK AVENUE

All bidders' attention is directed to the City of Capitola's Special Project Specifications, Part 1 – Standard Provisions, Section 2 "Proposal Requirements and Conditions," for requirements related to bidding and bid proposals. Bids shall be submitted in writing on the proposal forms provided by the City. All information requested therein must be clearly and legibly set forth in the manner and form indicated. The City will not consider any proposal not meeting these requirements.

By submitting a proposal/bid, each bidder represents that they have carefully examined and investigated the site of the work contemplated and the Plans, Drawings, and Specifications therefor, in accordance with the City's Special Project Specifications.

Failure of the bidder to fulfill requirements for submittals required to be furnished after bid opening, including but not limited to bonds or escrowed bid documents, where applicable, may subject the bidder to an adverse determination of the bidder's responsibility in the event it is the apparent low bidder on a future public works contract.

Bid protests and procedures therefore are set forth in the City's Special Project Specifications.

In the event the bidder has any questions as to the meaning of any part of the plans and specifications, or if the bidder finds any error, inconsistency, or ambiguity in the Contract Documents, the bidder shall make a written request for clarification prior to submitting its bid. All questions and comments regarding the plans and specifications should be directed to the Project Manager indicated below and will only be responded to if received in writing at least five (5) working days before the bid opening. Questions received after this time and date may not be responded to.

Kailash Mozumder
420 Capitola Avenue
Capitola, CA 95010
Attention: kmozumder@ci.capitola.ca.us

These "Instructions to Bidders" are hereby made a part of the Contract Documents.



PROPOSAL FORMS

BIDDER'S PROPOSAL FOR:

RECONSTRUCT STORM DAMAGED BIKE PATH AND SHOULDER ON PARK AVENUE

Enclosed is Bidder's proposal to furnish and deliver all materials and to do and perform all work in accordance with the plans and contract documents of the City of Capitola for

RECONSTRUCT STORM DAMAGED BIKE PATH AND SHOULDER ON PARK AVENUE

and referred to the "Notice to Contractors/Notice Inviting Sealed Proposals of Bids" dated WEDNESDAY, APRIL 29, 2020 at 11:00 A.M., and to provide all necessary machinery, tools, apparatus, and other means of construction and do all work and furnish all materials required by said specifications, plans, and drawings in the manner prescribed therein.

The undersigned bidder understands that any quantities of work shown herein are approximate only and are subject to increase or decrease, and offers to do the work whether the quantities are increased or decreased at the unit prices, if required, as stated in the following tabulation. The undersigned bidder agrees to take in full payment for the work, including all applicable State and local taxes, the amount shown on the bid sheet.

The undersigned also agrees as follows:

IT IS UNDERSTOOD THAT THIS BID IS BASED UPON COMPLETION OF THE WORK AS SPECIFIED IN THE SPECIAL PROVISIONS, WITHIN **45 WORKING DAYS**.

To do any extra work, not covered by the schedule of price, which may be ordered by the City, and to accept as full compensation therefore such prices as may be agreed upon in writing by the City and the Contractor in accordance with the Standard Specifications.

If awarded the contract, the undersigned hereby agrees to execute said contract, with necessary bonds and insurance certificates, of which this Proposal and Notice Inviting Bids, Standard Specifications, Plans and any and all other Contract Documents shall be a part, within 20 calendar days after receipt of notice of the award of said contract, and to begin work within 10 working days after receiving Notice to Proceed with the contract.

THE UNDERSIGNED BIDDER HAS CAREFULLY EXAMINED THE FORM OF THIS CONTRACT, THE STANDARD SPECIFICATIONS, THE PLANS, THE DRAWINGS, THE NOTICE TO CONTRACTORS/NOTICE INVITING SEALED PROPOSALS OR BIDS, AND ALSO THE SITE OF THE WORK, AND WILL PROVIDE ALL NECESSARY MACHINERY, TOOLS, APPARATUS AND OTHER MEANS OF CONSTRUCTION AND DO ALL THE WORK AND FURNISH ALL MATERIALS REQUIRED THEREIN.

No bid will be considered for less than all items of this schedule and one contract will be awarded for the entire project.

The undersigned has carefully checked the bid prices, and all computations involved in the preparation of this bid, and understands that the City of Capitola will not be responsible for any errors or omission on the part of the undersigned in making up this bid.

This proposal is made with a full knowledge of the kind, quantities and quality of the work and of the materials, equipment and plans required. This proposal is also made after a complete, careful and independent examination and investigation of the site of the work, local conditions affecting the same, and materials to be encountered.

The bidder furthermore agrees that in case of his/her default in executing said contract with necessary bonds and insurance certificates, the check or bond accompanying this Proposal and money payable shall become and remain the property of the City of Capitola.

Enclosed is bidder's bond, certified check or cashier's check no. _____

of the _____ Bank for \$ _____ which is not less than 10 percent of the bid submitted by the undersigned, payable to the City of Capitola, California, and which is given as a guarantee that the undersigned will enter into the contract if awarded the work.

The City Council will award one contract to the lowest responsible bidder for any combination of bid schedules; however, it is understood and agreed that the City may reject any or all proposals, or waive any informalities or minor defects in proposals received.

It is agreed that this bid may not be withdrawn over a period of 30 days from the opening thereof.

NOTE: Bidders must not add any conditions of qualifying statement to this bid as otherwise the bid may be declared irregular as being not responsive to the Advertisement for Bids.

Dated:

Firm Name:

Business Address:

Mailing Address:

Phone:

Email Address:

Signature of Bidder

By:

Title:

State Contractor's License No.:

Expiration Date:

CA State DIR Registration No.:

BID SCHEDULE

ITEM NO.	BID ITEM	UNIT	QTY	UNIT PRICE	UNIT TOTAL
1	Mobilization & Demobilization	LS	1		
2	Temporary Construction Fencing (4' Height)	LF	135		
3	Construction Staking	LS	1		
4	Traffic Control	LS	1		
5	Temporary Stormwater Pollution Control	LS	1		
6	Remove Surfacing and Base (10-inch Depth)	CY	29		
7	Clearing and Grubbing	SY	561		
8	Tree Removal (12" Diameter)	EA	1		
9	Fallen Tree Removal (Approximately 6' Diameter)	EA	1		
10	Structural Excavation	CY	880		
11	Structural Backfill	CY	1,280		
12	Geogrid Reinforcement	SY	1,000		
13	Revegetation (Erosion Control Blanket and Hydroseeding)	SY	496		
14	Aggregate Base (4-Inch Depth)	TON	39		
15	Hot Mix Asphalt (6-Inch Depth)	TON	62		
16	Storm Drain Catch Basin (Caltrans Type G1)	EA	1		
17	AC Dike	LF	257		
18	Thermoplastic Striping and Markings	LS	1		
Bid Amount					
19	Railroad Flagging [Revocable Bid Item]	DAY	45	\$500	\$22,500
GRAND TOTAL (BID AMOUNT PLUS ITEM #19)					\$

Bid Amount in words: _____

Item 19 is the cost to have railroad personnel flag during construction. The item is a fixed cost of \$500 per day. Only actual days requiring railroad personnel to flag will be paid.

WORKERS' COMPENSATION ACKNOWLEDGMENT CERTIFICATE

Labor Code section 1861 provides every contractor must submit the following certification prior to performing the work of the contract:

“I am aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for workers’ compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.”

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on _____[date], at _____[city], _____[state].

On behalf of Contractor by: _____

Its: _____

Signature

CERTIFICATE OF WORKERS' COMPENSATION INSURANCE FOR THE CITY OF CAPITOLA

In accordance with the provisions of Section 3800 of the of the Labor Code of the State of California, the undersigned insurance company hereby certifies to the City of Capitola, that it is an admitted Workers Compensation Insurer and that it has issued a policy of Workers' Compensation bearing policy number _____ to _____. Said policy is a valid policy of Workers' Compensation Insurance issued in a form approved by the California Insurance Commissioner and is now in full force and effect. The full deposit on said policy is the _____ day of _____, _____. The undersigned insurer will give said City of Capitola at least ten (10) days advance notice of the cancellation of said policy.

Insurance Company:_____

Address:_____

I declare under penalty of perjury that the foregoing is true and correct. Executed at Capitola, California, on this _____ day of _____, 2020.

Signature of Authorized Representative

Print Name of Authorized Representative

CONTRACTOR LICENSE INFORMATION

The undersigned bidder acknowledges that the appropriate license is required for performance of the:

RECONSTRUCT STORM DAMAGED BIKE PATH AND SHOULDER ON PARK AVENUE

The bidder holds the following California Contractors License(s):

1. License No. _____, Class _____, Expiration Date _____
2. License No. _____, Class _____, Expiration Date _____
3. License No. _____, Class _____, Expiration Date _____
4. License No. _____, Class _____, Expiration Date _____
5. License No. _____, Class _____, Expiration Date _____

Bidder's Taxpayer Identification No. _____

CONTRACTOR

By: _____

Its: _____

Dated: _____

I declare under penalty of perjury that the foregoing is true and correct. Executed at Capitola, California, on this _____ day of _____, 2020

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

The bidder _____, proposed subcontractor _____, hereby certifies that he has _____, has not _____, participated in a previous contract or subcontract subject to the equal opportunity clauses, as required by Executive Orders 10925, 11114, or 11246, and that, where required, he has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Note: The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7(b) (1)), and must be submitted by bidders and proposed subcontractors only in connection with contracts and subcontracts which are subject to the equal opportunity clause. Contracts and subcontracts which are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally only contracts or subcontracts of \$10,000 or under are exempt.)

Currently, Standard Form 100 (EEO-1) is the only report required by the Executive Orders or their implementing regulations.

Proposed prime contractors and subcontractors who have participated in a previous contract or subcontract subject to the Executive Orders and have not filed the required reports should note that 41 CFR 60-1.7(b) (1) prevents the award of contracts and subcontracts unless such contractor submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

NONCOLLUSION DECLARATION

TO BE EXECUTED BY BIDDER AND SUBMITTED WITH BID

The undersigned declares:

I am the _____ of _____, the party making the foregoing bid.

The bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The bid is genuine and not collusive or sham. The bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid. The bidder has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or to refrain from bidding. The bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder. All statements contained in the bid are true. The bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof, to effectuate a collusive or sham bid, and has not paid, and will not pay, any person or entity for such purpose.

Any person executing this declaration on behalf of a bidder that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the bidder.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on _____ [date], at _____ [city], _____ [state].

Contractor/Bidder

JURAT CERTIFICATE

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of _____)

County of _____)

Subscribed and sworn to (or affirmed) before me on this _____ day of _____, by _____, proved to me on the basis of satisfactory evidence to be the persons who appeared before me.

(This area for official notary seal)

Signature _____

DEBARMENT AND SUSPENSION CERTIFICATION

TITLE 49, CODE OF FEDERAL REGULATIONS, PART 29

The bidder, under penalty of perjury, certifies that, except as noted below, he/she or any other person associated therewith in the capacity of owner, partner, director, officer, manager:

- is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any Federal agency;
- has not been suspended, debarred, voluntarily excluded or determined ineligible by any Federal agency within the past 3 years;
- does not have a proposed debarment pending; and
- has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past 3 years.

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

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

Notes: Providing false information may result in criminal prosecution or administrative sanctions.

The above certification is part of the Proposal. Signing this Proposal on the signature portion thereof shall also constitute signature of this Certification.

NONLOBBYING CERTIFICATION FOR FEDERAL-AID CONTRACTS

The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in conformance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such subrecipients shall certify and disclose accordingly.

DISCLOSURE OF LOBBYING ACTIVITIES

DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
 (See reverse for public burden disclosure.)

Approved by OMB
 0348-0046

1. Type of Federal Action: a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	2. Status of Federal Action: a. bid/offer/application b. initial award c. post-award	3. Report Type: a. initial filing b. material change For Material Change Only: year _____ quarter _____ date of last report _____
4. Name and Address of Reporting Entity: <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known: Congressional District, if known: 4c		5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime: Congressional District, if known:
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, if applicable: _____	
8. Federal Action Number, if known:	9. Award Amount, if known: \$	
10. a. Name and Address of Lobbying Registrant <i>(if individual, last name, first name, MI):</i>	b. Individuals Performing Services <i>(including address if different from No. 10a)</i> <i>(last name, first name, MI):</i>	
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____	
Federal Use Only:		Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of covered Federal action or a material change to previous filing pursuant to title 31 U.S.C. section 1352. The filing of a form is required for such payment or agreement to make payment to lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress an officer or employee of Congress or an employee of a Member of Congress in connection with a covered Federal action. Attach a continuation sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence, the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last, previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District if known. Check the appropriate classification of the reporting entity that designates if it is or expects to be a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the first tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in Item 4 checks "Subawardee" then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organization level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identification in item 1 (e.g., Request for Proposal (RFP) number, Invitation for Bid (IFB) number, grant announcement number, the contract grant. or loan award number, the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitments for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influenced the covered Federal action.
(b) Enter the full names of the individual(s) performing services and include full address if different from 10 (a). Enter Last Name, First Name and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be

- made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box. Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
 13. Check the appropriate box. Check all boxes that apply. If other, specify nature.
 14. Provide a specific and detailed description of the services that the lobbyist has performed or will be expected to perform and the date(s) of any services rendered. Include all preparatory and related activity not just time spent in actual contact with Federal officials. Identify the Federal officer(s) or employee(s) contacted or the officer(s) employee(s) or Member(s) of Congress that were contacted.
 15. Check whether or not a continuation sheet(s) is attached.
 16. The certifying official shall sign and date the form, print his/her name title and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instruction, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project

(0348-0046), Washington, D.C. 20503.

SF-LLL-Instructions Rev. 06-04-

90«ENDIF»

BIDDER'S BOND

KNOW ALL MEN BY THESE PRESENT:

THAT WE, _____

AS PRINCIPAL, AND _____

AS SURETY, are held and firmly bound unto the City of Capitola in the penal sum of 10 PERCENT OF THE TOTAL AMOUNT OF THE BID of the Principal above named, submitted by said Principal to the City of Capitola for the work described below, for the payment of which sum in lawful money of the United States, well and truly to be made to the City of Capitola to which said bid was submitted, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, firmly by these presents. In no case shall the liability of the surety hereunder exceed the sum of \$ _____.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT, WHEREAS, the Principal has submitted the above-mentioned bid to the City of Capitola, aforesaid, for certain construction specifically described as follows, for which bids are to be opened at:

City of Capitola, 420 Capitola Avenue, Capitola, CA on Wednesday, April 29, 2020 at 11:00 A.M.

For:

RECONSTRUCT STORM DAMAGED BIKE PATH AND SHOULDER ON PARK AVENUE

NOW, THEREFORE, if the aforesaid Principal is awarded the contract and, within the time and manner required under the specifications, after the prescribed forms are presented to him/her for signature enters into a written contract. In the prescribed form, in accordance with the bid, and files the certificate of insurance and two bonds with the City, one to guarantee faithful performance, and the other to guarantee payment for labor and materials as required by law, then this obligation shall be null and void; otherwise, it shall be and remain in full force and virtue.

IN WITNESS WHEREOF, we have hereunto set our hands and seals on this _____ day of _____, 2020.

_____(Seal)_____ (Seal)

_____(Seal)_____ (Seal)

Principal

Surety

Address _____ Address _____

Note: Signatures of those executing for the surety must be properly acknowledged.

AGREEMENT

THIS AGREEMENT, made and entered into this _____ day of _____, _____, by and between the CITY OF CAPITOLA, a municipal corporation, hereinafter called "City," and _____, hereinafter called "Contractor;"

WITNESSETH, that the parties hereto do mutually agree as follows:

ARTICLE I

That for and in consideration of the covenants and agreements herein contained and the payments at the prices stated in the bid proposal attached hereto, and by this reference made a part hereof, the Contractor hereby covenants and agrees to furnish any and all required supervision, labor, equipment, "Standard Provisions" as hereinafter defined, and will bear any and all other expense necessary or incidental to the performance of certain work hereinafter specified, and to build, construct, reconstruct, pave or repave and complete improvements for:

RECONSTRUCT STORM DAMAGED BIKE PATH AND SHOULDER ON PARK AVENUE

in strict conformity and compliance with the City's Special Project Specifications, the Plans, and Drawings, and to do everything required by this agreement, and by said Standard Specifications as hereinafter defined.

ARTICLE II

It is expressly agreed and understood by the Contractor that the City's Special Project Specifications consists of the documents on file at the Office of the Director of Public Works of the City of Capitola, entitled:

"City of Capitola Special Project Specifications"

All sections of the Standard Specifications of the State of California, Department of Transportation, dated 2018 with most recent revisions, ("State Specifications"), shall apply. Where conflicts arise between the City's Special Project Specifications and the State Specifications, the City's Special Project Specifications shall control and apply

ARTICLE III

It is expressly agreed and understood by each and every party to this agreement that the Notice to Contractors/Notice Inviting Sealed Proposals or Bids, Instructions to Bidders, the City's Special Project Specifications, including the Standard Provisions, Technical Provisions, and Special Provisions, the City's Standard Details, the State Specifications, the Bid Proposal including all required forms and bonds, the Plans, and the Drawings are hereby incorporated and made a part of this contract (hereinafter the "Contract Documents"). The parties to this agreement do hereby expressly acknowledge that they have read, understand, and promise to comply with each and every provision of Contract Documents.

ARTICLE IV

Contractor shall conform to all laws and regulations of the United States and the State of California, as well as laws of Capitola, as may be applicable to the project.

ARTICLE V

The City hereby contracts to pay said Contractor the prices provided for in the Bid Proposal in the manner, to the extent, and at the times set forth in the Contract Documents.

ARTICLE VI

It is agreed by the parties hereto that the acceptance of the Contractor's performance will be made only by an affirmative action of the City of Capitola City Council in session, evidenced by resolution, and upon the filing by the Contractor of a Release of all Claims of every nature on account of work done under this contract, together with an affidavit that all claims have been fully paid. The acceptance by the Contractor of said final payment shall constitute a waiver of all claims against the City arising out of or in connection with this contract.

IN WITNESS WHEREOF, this contract is executed by the City Manager of the City of Capitola, under and pursuant to a resolution of the City Council authorizing such execution, and the Contractor has affixed his/her signature hereto the day and year first hereinabove written.

CITY OF CAPITOLA
A Municipal Corporation

CONTRACTOR:

By:

By:

Benjamin Goldstein
City Manager

Title:

Date: _____

Date: _____

Approved by the City Council on

ATTEST:

City Clerk

City Attorney
Approved as to Form

FAITHFUL PERFORMANCE & MAINTENANCE BOND

WHEREAS, the City Council of the City of Capitola, a municipal corporation, in the County of Santa Cruz, State of California, has awarded to _____, hereinafter designated as the "Principal," a contract for constructing the work or improvement described in the contract documents entitled:

RECONSTRUCT STORM DAMAGED BIKE PATH AND SHOULDER ON PARK AVENUE

adopted by the City Council of the City of Capitola on the _____ day of _____, _____, and,

WHEREAS, said Principal is about to enter into the annexed contract with the City of Capitola:

NOW, THEREFORE, we, the Principal, and _____, a corporation organized and existing under and by virtue of the laws of the State of California, as surety, are held and firmly bound unto the City of Capitola, a municipal corporation in the County of Santa Cruz, State of California, in the sum of _____ dollars (\$_____) being not less than one hundred percent (100%) of the estimated contract costs of the work, to be paid to the City of Capitola, for the payment of which sum, well and truly to be paid, we hereby jointly and severally bind ourselves, our heirs, administrators, executors, successors and assigns;

NOW, THEREFORE THE CONDITION OF THIS OBLIGATION IS SUCH, that if the Principal, his/her heirs, executors, administrators, successors, or assigns shall in all things abide by and well and truly keep and perform the covenants, conditions and agreements in the said contract and any alteration thereof made as herein provided, on his/her or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to the true intent and meaning, and shall indemnify and save harmless the City of Capitola, its officers and agents as therein stipulated, that this obligation shall be discharged, otherwise it shall be and remain in full force and effect.

As a condition precedent to the satisfactory completion of the said contract, the above obligation in the amount of dollars _____ dollars (\$_____), being not less than 10 percent of the estimated contract cost, shall remain in force for a period of one (1) year after the completion and acceptance of the said work, during which time if the Principal, his/her or its heirs, executors, administrators, successors or assigns shall fail to make full, complete and satisfactory repairs and replacements or totally protect the City of Capitola from loss or damage made evident during said period of one (1) year from the date of official acceptance of said work and resulting from or caused by defective materials or faulty workmanship in the prosecution of the work done, the above obligation in the sum of _____ dollars (\$_____), shall remain in full force and effect, otherwise the obligation shall be discharged. However, notwithstanding any other provisions of this paragraph, the obligation of the surety hereunder shall continue so long as any obligation of the Principal remains.

The surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the contract or to the work to be performed thereunder or the specifications shall in any way effect its obligation on this bond, and it does hereby waive notice of

any such changes, extensions of time, alterations, or additions to the terms of the contract or to the work or to the specifications, and the surety does hereby waive its rights under California Civil Code Section 2819.

IN WITNESS whereof, the parties have executed this instrument under their seals, this ___ day of _____, 20___, by its undersigned representative, pursuant to the authority of its governing body, the day and year first hereinabove written.

PRINCIPAL

SURETY

LABOR AND MATERIAL BOND

WHEREAS, the City Council of the City of Capitola, a municipal corporation in the County of Santa Cruz, State of California, has awarded to _____, hereinafter designated as the "Principal," a contract for constructing the work or improvement described in the contract documents entitled:

RECONSTRUCT STORM DAMAGED BIKE PATH AND SHOULDER ON PARK AVENUE

adopted by the City Council of the City of Capitola on the _____ day of _____, _____, and,

WHEREAS, said Principal is required under the terms of said contract to furnish a Labor and Material Bond, the surety of this bond will pay the same to the extent hereinafter set forth; and

WHEREAS, the said Principal is about to enter into the annexed contract with the City of Capitola to complete the work or improvement referred to above for the City of Capitola, County of Santa Cruz, State of California, all as more particularly and in detail as shown upon the Special Project Specifications and Contract Documents filed in the Public Works Department of the City of Capitola;

NOW, THEREFORE, we the Principal, and _____ a corporation organized and existing under and by virtue of the laws of the State of California, as surety, are held and firmly bound unto the City of Capitola in the sum of _____ dollars (\$_____) such sum being not less than one hundred percent (100%) of the estimated contract cost of the work, lawful money of the United States of America, to be paid to the City of Capitola, for the payment of which sum, well and truly to be made, we hereby bind ourselves, our heirs, administrators, executors, successors and assign jointly and severally.

THE CONDITION OF THIS OBLIGATION IS SUCH, that if said Principal or its heirs, executors, administrators, successors or assigns, shall fail to pay for any materials, provisions, vendor supplies, or equipment as provided in the contract documents, upon, for, or about the performance of the work contracted to be done, or for any work or waiver thereon of any kind, or for amounts due under the Unemployment Insurance Code with respect to work or labor performed by any such claimant, or fails to pay any of the persons authorized under Civil Code Section 9100 to assert a claim against a payment bond, or fails to pay for any amounts required to be deducted, withheld, and paid over to the Franchise Tax Board for the wages of employees of the Principal or his/her subcontractor pursuant to Section 18806 of the Revenue and Taxation Code, or 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 all subcontractors with respect to such work and labor that the surety or sureties will pay for the same, in an amount not exceeding the sum specified in this bond, and also, in case suit is brought upon the bond, will pay, in addition to the face amount hereof, a reasonable attorney's fee, to be fixed by the Court.

The condition of this obligation is such that its terms inure to the benefit of any of the persons and entities authorized in Civil Code Section 9100 to assert a claim against a payment bond so as to give a right of action to such persons or entities or their assigns in any suit brought upon or action to enforce liability on the bond.

The surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the contract or to the work to be performed thereunder shall in any manner affect its obligation upon this bond, and it does hereby explicitly waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the work to be performed thereunder, and further explicitly hereby waives its rights under Civil Code Section 2819.

IN WITNESS WHEREOF, the above parties have executed this instrument under their seals this _____ day of _____, 20__, and duly signed by its undersigned representation, pursuant to authority of its governing body.

PRINCIPAL

SURETY

ESCROW AGREEMENT FOR SECURITY DEPOSITS IN LIEU OF RETENTION

This escrow agreement is made on _____ and entered into by and between; City of Capitola whose address is 420 Capitola Avenue, Capitola, CA 95010, hereinafter called “City”, and _____ whose address is _____ hereinafter called “Contractor”, whose address is _____, and _____ whose address is _____, hereinafter called “Escrow Agent”

For the consideration hereinafter set forth, the City, Contractor, and Escrow Agent agree as follows:

- (1) Pursuant to Section 22300 of the Public Contract Code of the State of California, Contractor has the option to deposit securities with Escrow Agent as a substitute for retention earnings required to be withheld by City pursuant to the Construction Contract entered into between the City and Contractor for _____ project in the amount of \$_____ dated _____ (hereinafter referred to as the “Contract”). Alternatively, on written request of the Contractor, the City shall make payments of the retention earnings directly to the Escrow Agent. When the Contractor deposits the securities as a substitute for Contract earnings, the Escrow Agent shall notify the Owner within 10 days of the deposit. The market value of the securities at the time of the substitution shall be at least equal to the cash amount then required to be withheld as retention under the terms of the Contract between the City and the Contractor. Securities shall be held in the name of the City of Capitola, and shall designate the Contractor as the beneficial owner.
- (2) The City shall make progress payments to the Contractor for those funds which otherwise would be withheld from progress payments pursuant to the Contract provisions, provided that the Escrow Agent holds securities in the form and amount specified above.
- (3) When the City makes payment of retentions earned directly to the Escrow Agent, the Escrow Agent shall hold them for the benefit of the contractor until the time that the escrow created under this contract is terminated. The Contractor may direct the investment of the payments into securities. All terms and conditions of this agreement and the rights and responsibilities of the parties shall be equally applicable and binding when the City pays the Escrow Agent directly.
- (4) The Contractor shall be responsible for paying all fees for the expenses incurred by the Escrow Agent in the administering the Escrow Account and all expenses of the City. These expenses and payment terms shall be determined by the City, Contractor and Escrow Agent.
- (5) The interest earned on the securities or the money market accounts held in Escrow and all interest earned on that interest shall be for the sole account of Contractor and shall be subject to withdrawal by Contractor t any time and from time to time without notice to the City.
- (6) Contractor shall have the right to withdraw all or any part of the principal in the Escrow Account only by written notice to the Escrow Agent accompanied by written authorization from the City to the Escrow Agent that the City consents to the withdrawal of the amount sought to be withdrawn by the Contractor.

(7) The City shall have the right to draw upon the securities in the event of default by the Contractor. Upon seven days' written notice to the Escrow Agent from the City of the default, the

Escrow Agent shall immediately convert the securities to cash and shall distribute the cash as instructed by the City.

(8) Upon receipt of written notification from the City certifying that the Contract is final and complete, and that the Contractor has complied with all requirements and procedures applicable to the Contract, Escrow Agent shall release to Contractor all securities and interest on deposit less escrow fees and charges of the Escrow Account. The escrow shall be closed immediately upon disbursement of all moneys and securities on deposit and payment of fees and charges.

(9) The Escrow Agent shall rely on the written notifications from the City and the Contractor pursuant to Sections (5) to (8), inclusive, of this Agreement and the City and Contractor shall hold the Escrow Agent harmless from Escrow Agent's release and disbursement of the securities and interest as set forth above.

(10) The names of the persons who are authorized to give written notice or to receive written notice on behalf of the City and on behalf of the Contractor in connection with the foregoing, and examples of their respective signatures are as follows:

CITY

Contractor

Authorized Signer

Authorized Signer

Name: _____

Name: _____

Title: _____

Title: _____

Address: _____

Address: _____

City, State,
Zip _____

City, State,
Zip _____

Phone: _____

Phone: _____

On behalf of the Escrow Agent:

Authorized Signer

Name: _____

Title: _____

Address: _____

City, State,
Zip _____

Phone: _____

PART 2: STANDARD PROVISIONS

SECTION 1

DEFINITIONS AND TERMS

Whenever in these specifications and other contract documents, the following abbreviations and terms or pronouns in place of them are used, the intent and meaning shall be interpreted as follows:

ABBREVIATIONS

AASHTO	American Association of State Highway and Transportation Officials
AAN	American Association of Nurserymen
ACI	American Concrete Institute
AGMA	American Gear Manufacturers Association
AIEE	American Institute of Electrical Engineers
AISI	American Iron and Steel Institute
AISC	American Institute of Steel Construction
ANSI	American National Standards Institute
AREA	American Railway Engineering Association
ASA	American Standards Association (United States of America Standards Instruction)
ASCE	American Society of Civil Engineers
ASHRAE	American Society of Heating, Refrigerating and Air Conditions Engineers
ASME	American Society of Mechanical Engineers
ASTM	American Society of Testing Materials
AWS	American Welding Society
AWPA	American Wood-Preservers' Association
AWWA	American Water Works Association
DIR	Department of Industrial Relations
FS	Federal Specification
IEEE	Institute of Electrical and Electronic Engineers
MUTCD	Manual on Uniform Traffic Control Devices
NBFU	National Board of Fire Underwriters
NEMA	National Electrical Manufacturers Association
SAE	Society of Automotive Engineers
SPSPWC	Special Project Specifications for Public Works Construction
UL	Underwriters Laboratories

All references to specifications, standards, or other publications of any of the above are understood to refer to the current issue as revised or amended at the date of receipt of bids/Contract.

SECTION 1
DEFINITIONS AND TERMS

1.01 Acceptance - The formal written acceptance by the City Council of the Contract which has been completed in all respects in accordance with the Drawings and Specifications and any modifications thereof previously approved.

1.02 Addendum - A change in the Specifications or Drawings issued prior to the opening of Proposals.

1.03 Approved, Directed, Ordered, or Required - Whenever these words or their derivatives are used, it is the intent, unless otherwise clearly stated, that approval or direction by the Engineer is indicated

1.04 Article - A numbered portion of a title Section of the Specifications

1.05 Bidder - Any individual, firm, partnership, corporation or combination thereof, submitting a proposal for the work contemplated, acting directly or through a duly authorized representative.

1.06 City - The City of Capitola.

1.07 Contract/Contract Documents - The written agreement covering the performance of the work and the furnishing of labor; materials, tools, and equipment in the construction of the work. The Contract shall include the Notice to Contractors, Proposal, Drawings, City Special Project Specifications, Addenda, and Contract Bonds; also, any and all supplemental agreements amending or extending the work in a substantial and acceptable manner. Supplemental agreements are written agreements signed by both parties covering alterations, amendments, or extensions to the Contract and include Contract change orders.

1.08 Contractor - The person or persons, firm, partnership, corporation, or combination thereof, private or municipal, who is the successful bidder and has entered into a contract with the City.

1.09 Council, City Council - The City Council of the City of Capitola.

1.10 Days - Working days, unless otherwise designated.

1.11 Director - The Director of the Public Works Department, acting either directly or through properly authorized agents, such agents acting within the scope of the particular duties delegated to them.

1.12 Drawings - The official drawings, working drawings, detail drawings, and supplemental drawings, or reproductions thereof, which show the location, character, dimensions, and details of the work to be done, and which are to be considered as part of the Contract.

1.13 Engineer - The City Engineer acting either directly or through properly authorized agents, such agents acting within the scope of the particular duties delegated to them.

1.14 Liquidated Damages - The amount prescribed in the specifications, pursuant to the authority of Government Code Section 53069.85, to be paid to the City or to be deducted from any payments due or to become due the Contractor for each day's delay in completing the whole or any specified portions of the work beyond the time allowed in the Specifications.

1.15 Plans, Constructions Plans - The Drawings which are a part of the Contract.

1.16 Project - The project, works of improvement, or other work identified in the Contract Documents.

1.17 Proposal - The offer of the Bidder for the work when made out and submitted on the prescribed Proposal Form, properly signed and guaranteed.

1.18 Special Provisions - The special provisions are specific clauses setting forth conditions or requirements peculiar to the work and supplementary to the Standard Provisions and Technical Provisions.

1.19 Specifications - The directions, provisions and requirements contained in the City's Special Project Specifications, including the Standard Provisions, Technical Provisions, and Special Provisions, and those incorporated by reference.

1.20 State Specifications - Wherever in these Specifications reference is made to the "State Specifications," reference shall be to specifications entitled, "State of California, Department of Transportation, Standard Specifications," 2018 edition with most recent revisions, and which are incorporated herein and made a part hereof by reference. Where the terms "State" or the "Engineer" are used in reference to the State Specifications, they shall be considered as meaning the "City" or "Director/Engineer" as defined hereinabove and as may be applicable.

1.21 Subcontractor - A person, firm or corporation that is obligated as a party to a contract with the Contractor to perform part of the Project work. For purposes of these General Conditions Subcontractors include, but are not limited to, those that are obligated as parties to a contract with the Contractor to specially fabricate and install a portion of the Project Work according to the Technical Specifications and/or Project Plans.

1.22 Work - All the work specified, indicated, shown or contemplated in the Contract to construct the improvements, including all alterations, amendments or extensions thereto made by supplemental agreements or written orders of the Director.

SECTION 2
PROPOSAL REQUIREMENTS AND CONDITIONS

2.01 OBTAINING PLANS AND SPECIFICATIONS – The City’s Special Project Specifications, Plans, and Drawings may be obtained at the location indicated on the Notice to Bidders and/or the Office of the Engineer, City Hall, 420 Capitola Ave, Capitola, California 95010.

2.02 CONTENTS OF PROPOSAL FORMS – Prospective bidders will be furnished proposal forms which describe the contemplated construction and, where appropriate, show the approximate estimate of the quantities of the various kinds of work to be performed or materials to be furnished, with a schedule of items for which bid prices are asked. The unit prices or lump sum amounts bid shall include full compensation for furnishing all labor, materials, tools, and equipment and doing all work complete in place as shown on the Drawings or stipulated in the Specifications for that particular item of work.

2.03 ESTIMATED QUANTITIES – The quantities given in the Proposal are approximate only, being given as a basis for the comparison of Proposals, and the City does not, expressly or by implication, agree that the actual amount of work will correspond therewith, but reserves the right to increase or decrease the amount of any class or portion of the work, or to omit portions of the work, as may be deemed necessary or advisable. No allowance will be made for anticipated profit on work which is deleted or decreased.

2.04 EXAMINATION OF DRAWINGS, SPECIFICATIONS, AND SITE OF WORK – The Bidder shall examine carefully the site of the work contemplated and the Proposal, Drawings, and Specifications therefor. The submission of a Proposal will be conclusive evidence that the bidder has investigated and is fully aware of the conditions and difficulties to be encountered, of the character, quality and quantities of work to be performed and materials to be furnished, and of the requirements of the Proposal, Drawings, and Specifications; as to the nature and location of the work, the general and local conditions, particularly those bearing upon transportation, disposal, handling and storage of material, availability of labor, water, electric power, roads and uncertainties of weather, or similar physical conditions at the site; the conformation and conditions of the ground, the character and quality and quantity of surface and subsurface materials, including groundwater, to be encountered; the character of equipment and facilities needed preliminary to, and during the, prosecution of the work; and all other matters which can in any way affect the work or the cost thereof under this Contract. Any failure by the Contractor to acquaint themselves with all available information concerning these conditions will not relieve him/her from responsibility for estimating properly the difficulty or cost of successfully performing the work.

If there is any doubt as to the true meaning of any part of the Plans, Specifications, or other Contract Documents, or if discrepancies in, or omissions from, the Drawings or Specifications are found, a request should be made to the Director for an interpretation or correction thereof, which will be given in the form of addenda to all bidders, if time permits. Otherwise, in figuring the work, bidders shall consider that any discrepancies or conflict between Drawings and Specifications shall be governed by Article 5.17 of these Specifications.

No payment shall subsequently be made to the Contractor because of error on his/her part or of negligence or failure to acquaint himself/herself with the existing conditions, limitations, or features of

the site or requirements of the contract documents; or by reason of any estimate, tests, or representations of any officer, employee or agent of the City.

Where investigation of subsurface conditions has been made by the City in respect to foundation or other design, bidders may inspect the records of the City as to such investigation, including examination of samples and drill cores, if any. When logs of test borings showing a record of the data obtained by the City's investigation of subsurface conditions are made available, said logs represent only the opinion of the City as to the character of materials encountered in its test borings and are made available only for the convenience of bidders.

Investigations of subsurface conditions are made for the purpose of design, and the City assumes no responsibility whatever in respect to the sufficiency of test borings or accuracy of the log of test borings, of other preliminary investigations, or of the interpretation thereof. There is no guarantee expressed or implied that the conditions indicated are representative of those existing throughout the work, or any part of it, or that unforeseen developments may not occur.

Making such information available to bidders is not to be construed in any way as a waiver of the provisions of the first paragraph of this Article and bidders must satisfy themselves through their own investigations as to conditions to be encountered.

No information derived from such inspection of records or preliminary investigation made by the City, or from the Director, or from his/her assistants, or from the maps, Specifications, profiles, or Drawings will in any way relieve the Contractor from any risk or from properly fulfilling all the terms of the Contract. Records of such preliminary investigations as may have been made by the City may be inspected at the office of the Director of Public Works, Capitola City Hall, 420 Capitola Ave, Capitola, California 95060, or at such other locations as may be stated in the Notice to Contractors.

2.05 PROPOSAL FORM – The Proposal forms furnished by the City or its representatives, when filled out by the bidder and executed, shall be submitted as his/her Proposal. Neither the Proposal form nor any other portion of the Contract Documents or Specifications shall be detached therefrom. Proposals submitted on forms detached shall be disregarded. All Proposals should give the prices proposed, both in writing and in figures in the respective spaces provided, and shall be signed by the bidder, who should fill out all blanks in the Proposal form as therein required. In the event of a discrepancy between writing and figures, the writing shall prevail over the figures.

A copy of each addendum to the Specifications or Drawings shall be attached securely to the Specifications containing the Proposal (refer to Article 2.13).

2.06 QUERIES ON BIDDING – Questions regarding the Specifications or Drawings or any other portion of the Contract or any addenda thereto shall be directed to the Director, at Capitola City Hall, 420 Capitola Ave, Capitola, California 95060, in writing. No interpretation of the meaning of the Specifications, Drawings, or other pre-bid documents will be made to any bidder orally.

2.07 REJECTION OF PROPOSALS – Proposals may be rejected if they show any alterations of form, additions not called for, conditional bids, incomplete bids, erasures, or irregularities of any kind. Proposals in which the prices, in the opinion of the City, are unbalanced, may be rejected. When Proposals are signed by an agent, other than the officer or officers of a corporation authorized to sign contracts on its behalf, or a member of a partnership, a written authorization or Power of Attorney should be on file with the City prior to opening Proposals or submitted with the Proposal; otherwise, the Proposal may be rejected as irregular and unauthorized.

2.08 PROPOSAL GUARANTEE/BIDDER'S SECURITY – All Proposals shall be presented under sealed cover and accompanied by one of the following forms of bidder's bond executed by an admitted surety, made payable to the City of Capitola. The security shall be in an amount equal to at least 10 percent of the total contract price in the Proposal. A Proposal will not be considered unless one such form of bidder's security is enclosed with it.

A bidder's bond will not be accepted unless it substantially conforms to the bond form included with the Proposal form and is properly filled out and executed. If desired, the bond form included therein, properly filled out as directed, may be executed and used as the bidder's bond. Blanks conforming to this form may be obtained by request from the City.

2.09 WITHDRAWAL OF PROPOSALS – Any Proposal may be withdrawn at any time prior to the time fixed in the Notice to Contractors for the opening of Proposals only by written request for the withdrawal of the Proposal filed with the Director of Public Works. The request shall be executed by the bidder or his/her duly authorized representative. The withdrawal of a Proposal does not prejudice the right of the bidder to file a new Proposal. This article does not authorize the withdrawal of any Proposal after the time fixed in the Notice to Contractors for the opening of Proposals.

2.10 PUBLIC OPENING OF PROPOSALS – Proposals will be opened and read publicly at the time and place indicated in the Notice to Contractors.

2.11 JOINT PROPOSALS – If two or more bidders desire to bid jointly on a single project or desire to combine their assets for so doing, they shall file an affidavit of joint venture with the City in the form approved by the City Attorney and such affidavit of joint venture will be valid only for the specified project for which it is filed. If such affidavit of joint venture is not filed as aforesaid and approved by the City prior to the time for opening Proposals on the specified project for which it is submitted, a joint proposal submitted by the same bidders may be disregarded.

2.12 DISQUALIFICATION OF BIDDERS – More than one Proposal form from an individual, firm, partnership, corporation, or a combination thereof under the same or different names will not be considered. If there is reason for believing that collusion exists among the bidders, none of the participants in such collusion will be considered for award for this Contract.

Contractors or subcontractors who are ineligible under Labor Code sections 1777.1 and 1777.7 are prohibited from working on the Project.

2.13 ADDENDUM – Addenda may be issued prior to opening of Proposals and shall become a part of the original Specifications and Drawings. The additions or changes contained in such addenda shall be considered by the bidder in preparation of his/her Proposal. These addenda will be sent to each prospective bidder at the address indicated in his/her application for a Proposal form. A copy of each addendum so issued shall be attached to the Specifications containing the Proposal submitted by the bidder to the City Clerk.

2.14 LIST OF SUBCONTRACTORS – The Contractor shall perform with his/her own organization and with workers under his/her immediate supervision work of a value not less than fifty percent (50%) of the value of all work embraced in the contract, except when certain items may be exempted by the Special Provisions from said fifty percent requirement.

In accordance with Public Contract Code sections 4100 *et seq.*, the Subletting and Subcontracting Fair Practices Act, each proposal shall have listed on the form provided with the Proposal, (a) the name, the location of the place of business, the California contractor license number, and public

works contractor registration number issued pursuant to California Labor Code Section 1725.5 of each subcontractor who will perform work or labor or render service to the general contractor in or about the construction of the work or improvement in an amount in excess of one-half of one percent (0.5%) of the general contractor's total bid or \$10,000.00, whichever is greater, and, (b) the portion of the work which will be done by each such subcontractor.

If a Contractor fails to specify a subcontractor for any portion of the work to be performed under this contract in excess of one-half of one percent of the total bid, s/he agrees to perform that portion him/herself.

No Contractor or Subcontractor may be listed on a bid or proposal for a public works project unless registered with the DIR pursuant to Labor Code section 1725.5. A Contractor or Subcontractor shall not be qualified to bid on, be listed in a bid proposal, or enter into any contract for public work, unless currently registered and qualified to perform public work pursuant to Labor Code section 1725.5. By submitting a bid or proposal to the City, Contractor is certifying that he or she has verified that all subcontractors used on this project are registered with the DIR in compliance with Labor Code sections 1771.1 and 1725.5, and Contractor shall provide proof of registration to the City as part of the Proposal.

A Contractor's inadvertent error in listing a Subcontractor who is not registered pursuant to Labor Code section 1725.5 in response to a solicitation shall not be grounds for filing a bid protest or grounds for considering the bid nonresponsive provided that any of the following apply: (1) the Subcontractor is registered prior to bid opening; (2) within twenty-four hours after the bid opening, the Subcontractor is registered and has paid the penalty registration fee specified in Labor Code section 1725.5; or (3) the Subcontractor is replaced by another registered subcontractor pursuant to Public Contract Code section 4107.

2.15 COMPETENCY OF BIDDER – The bidder shall be licensed under the applicable provisions of the Business and Professions Code of the State of California to do the type of work contemplated in the project, and shall be skilled and regularly engaged in the general class or type of work called for under this contract.

It is the intention to award a contract only to a bidder who furnishes satisfactory evidence that s/he has the requisite experience and ability and that s/he has sufficient capital, facilities, and plans to enable him/her to prosecute the work successfully and promptly, and to complete it within the time stated in the contract.

To determine the degree of responsibility to be credited to a bidder, any relevant evidence will be considered that the bidder, or personnel guaranteed to be employed in responsible charge of the work, has satisfactorily performed other contracts of like nature and magnitude or comparable difficulty at similar rates of progress.

2.16 RELIEF OF BIDDERS – Attention is directed to the provisions of Public Contract Code sections 5100 *et seq.*, which sections are incorporated herein by this reference, concerning relief of bidders and in particular to the requirement therein that if the bidder claims a mistake was made in his/her bid, the bidder shall give the City written notice within five (5) days after the opening of the bids of the alleged mistake, specifying in the notice in detail how the mistake occurred.

2.17 BID PROTESTS – Any contractor who unsuccessfully bids on a City contract awarded by the City in accordance with the provisions of the Capitola Municipal Code (CMC), Chapter 3.16, or any

trade association representing workers who would have potentially been employed by such a contractor, may file a bid protest.

The bid protest shall be in writing and filed with the Director of Public Works within five days of the date of the City's written Notice of Intention to Award the bid. The City Council shall hear the bid protest prior to award of the contract. The protesting party may protest the bid award for the City's or successful bidder's failure to comply with the requirements of CMC, Chapter 3.16, the bid documents, or any other applicable provision of the CMC. The bid protest shall clearly set forth the basis for the bid protest.

Grounds not set forth in the written protest may not be considered by the City Council at the bid protest hearing. The City Council shall sustain a bid protest if the protesting party demonstrates by clear and convincing evidence that, as specified above, the City would act improperly in awarding the bid. The decision of the City Council shall be final.

SECTION 3

AWARD AND EXECUTION OF CONTRACT

3.01 CONSIDERATION OF PROPOSALS – After the proposals have been opened and read, they will be checked for accuracy and compliance with these Specifications. If the unit price and the total amount named for any item do not agree, the unit price will be considered as representing the Bidder's intention.

The right is reserved to reject any or all proposals; to waive an irregularity in a bid or bidding procedure; and to accept one schedule of a proposal and reject another, unless the bidder specifically stipulates to the contrary.

3.02 AWARD OF CONTRACT – The award of the Contract, if it is awarded, will be to the lowest responsible bidder whose Proposal complies with the requirements prescribed and who is appropriately licensed in accordance with law. Such award, if made, will be made within 30 days after the opening of the Proposals or as specified in the Proposal or Special Provisions. If the lowest responsible bidder refuses or fails to execute the Contract, the City Council may award the Contract to the second lowest responsible bidder. Such award, if made, will be made within 45 days after the opening of the Proposals. If the second lowest responsible bidder refuses or fails to execute the Contract, the City Council may award the Contract to the third lowest responsible bidder. Such award, if made, will be made within 60 days after the opening of the Proposals. The periods of time specified above within which the award of contract may be made shall be subject to extension for such further period as may be agreed upon in writing between the City and the bidder concerned.

All proposals will be compared on the basis of the City's estimate of the quantities of work to be done.

3.03 RETURN OF PROPOSAL GUARANTEES – Within ten days after the award of the Contract to the lowest responsible bidder, the City will return the proposal guarantees, other than bidder's bonds, accompanying such of the Proposals as are not to be further considered in making the award. Retained proposal guarantees will be held until the contract has been finally executed after which all proposal guarantees, except bidder's bonds and any guarantees which have been forfeited, will be returned to the bidders whose Proposals they accompany.

3.04 CONTRACT BONDS – Prior to the execution of the Contract, the Contractor shall file with the City one or more surety bonds in the amounts and for the purpose noted below, duly executed by a solvent surety company satisfactory to the City, and (s)he shall pay all premiums and costs thereof and incidental thereto. The bonds shall contain a provision that the surety thereon waives the provisions of Section 2819 of the Civil Code of the State of California. Contractor and Surety shall warrant to the City that the Surety is licensed by the California Secretary of State to conduct business in the State of California and Surety shall provide proof of its authorization to conduct business in the State of California.

Each bond must be signed by both the Contractor and the Sureties.

The "**Bond for Labor and Material**" shall be in an amount of 100 percent of the contract price as determined from the prices in the Proposal form, and shall inure to the benefit of persons performing labor or furnishings materials in connection with the work of the proposed contract. This bond shall be maintained in full force and effect until all work under the Contract is completed and accepted by the City, and until all claims for materials and labor have been paid.

The “**Bond for Faithful Performance**” shall be in an amount of 100 percent of the contract price as determined from the prices in the Proposal form, and shall be so conditioned as to insure the faithful performance by the Contractor of all work under the Contract. It shall also insure the replacing of, or making acceptable, any defective materials or faulty work.

The Bond for Faithful Performance shall remain in effect to guarantee the repair and replacement of defective equipment, materials and work, discovered within one (1) year, after final payment has been accepted by the Contractor and the payment to the City of all damages sustained by it on account of such defects, discovered within one (1) year, or in lieu thereof, a bond equal to ten (10) percent of the full amount of the contract, may be substituted for the faithful performance bond upon completion and final acceptance and final payment for the work performed under the contract, which shall remain in effect for a period of one (1) year to guarantee the repair and replacement and payment of damage. In all respects, the substitute bond shall satisfy the requirements and conditions of the original Faithful Performance Bond.

Should any surety or sureties be deemed unsatisfactory at any time by the City, notice will be given the Contractor to that effect, and s(he) shall forthwith substitute a new surety or sureties satisfactory to the City. No further payment shall be deemed due or will be made under this Contract until the new sureties shall qualify and be accepted by the City.

All alterations, extensions of time, extra and additional work, and other changes authorized by these Specifications or any part of the Contract may be made without securing the consent of the surety or sureties on the contract bonds.

3.05 EXECUTION OF CONTRACT – The Contract shall be signed by the successful bidder and returned, together with the contract bonds, within twenty days, not including Sundays and legal holidays, after the bidder has received the Contract for execution or as specified in the proposal or Special Provisions.

3.06 FAILURE TO EXECUTE CONTRACT – Failure of the lowest responsible bidder, the second lowest responsible bidder, or the third lowest responsible bidder to execute the Contract and file acceptable bonds as provided herein within twenty days or as specified in the Proposal form or Special Provisions, not including Sundays and legal holidays, after such bidder has received the Contract for execution shall be just cause for the annulment of the award and forfeiture of the proposed guarantee.

3.07 CONTRACTOR’S INSURANCE

3.07.01 General - Without limiting the responsibility of the Contractor for damages as set forth in Article 7.18, the Contractor must obtain all insurance required under this Article, in a form approved by the City, and Contractor must not allow any Subcontractor to commence work on any Subcontract until all insurance required of Contractor has been likewise obtained by the Subcontractor, and such insurance is approved by the City. Approval of the insurance by City shall not relieve or decrease the liability of Contractor hereunder. Contractor shall procure and maintain for the duration of the Contract, and at least 5 years thereafter, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees or subcontractors.

3.07.02

Minimum Scope and Limit of Insurance - Without limiting any of the other obligations or liability of Contractor, Contractor shall provide and maintain, until the work is completed and accepted by the City, the following minimum insurance coverages, unless otherwise specified in the particular specifications.

- a. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. Such CGL shall include, or be endorsed to include, the following:
 - i. Cross Liability Coverage
 - ii. Blanket Contractual Liability Coverage
 - iii. Contractor's Protective Liability Coverage
 - iv. Products and Completed Operations Coverage
 - v. Broad Form Property Damage Coverage
 - vi. Explosion, Collapse and Underground Property Damage Liability Coverage

- b. **Workers’ Compensation Insurance** as required by the State of California, with Statutory Limits. The Contractor and any subcontractors engaged in performance of the Work must secure payment of workers compensation in accordance with California Labor Code Section 3700 and other applicable law. The Contractor must verify that all Subcontractors comply with this requirement.

- c. **Employers’ Liability Insurance** with a limit of no less than \$1,000,000 per accident for bodily injury or disease.

- d. **Automobile Liability Insurance** coverage all automobiles, trucks, tractors, trailers, motorcycles, or other automotive equipment, whether owned or rented by Contractor or owned by employees of Contractor. Such insurance shall be on Insurance Services Office Form Number CA 0001 covering Code 1 (any auto), with limits no less than \$1,000,000 per accident for bodily injury and property damage.

- e. **Professional Liability** (Error’s & Omissions), with limits no less than \$1,000,000 per occurrence or claim, and \$2,000,000 policy aggregate.

- f. **Contractors Pollution Legal Liability and/or Asbestos Legal Liability** with limits no less than \$1,000,000 per occurrence or claim, and \$2,000,000 policy aggregate.

3.07.03

Insurance Provisions - The insurance provided by the above insurance policies shall name as additional insured the City of Capitola, its officer, agents, and employees and shall be primary insurance to the full limits of liability stated above to said additional insured. If said additional insured have other insurance against the loss covered by said policy, that other insurance shall be excess insurance only. The comprehensive general liability policy shall be endorsed to provide insurance to said additional insured with respect to omissions and supervisory acts or omissions, including passive

negligence with respect to said work, and shall not be subject to reduction or cancellation without thirty (30) days prior written notice to the City of Capitola.

In the event the work called for in this contract is to be performed as a joint project with the State of California, or a County, or any City within a County, or other agency, or is to be performed on lands under the jurisdiction of the State of California, or a County, or any City within a County, the policy of insurance required by paragraph 3.07.02, entitled “Minimum Scope and Limit of Insurance” shall name the State of California, that County, and/or that City or other agency additional insured in addition to naming City and the statement contained in paragraph 3.07.03, entitled, “Insurance Provisions,” shall be modified accordingly.

SECTION 4

SCOPE OF WORK

4.01 WORK TO BE DONE – The work to be done consists of furnishing all labor, methods or processes, implements, tools, machinery, construction equipment, materials of any kind, and installed manufactured equipment, except as otherwise specified herein to be furnished by the City or from sources provided by the City, which are required to construct in a good and professional manner all the work herein provided for.

4.02 MAINTENANCE AND CLEAN-UP – Throughout the construction period, the Contractor shall keep the site of the work in a neat and clean condition, shall dispose of any surplus materials in an approved manner off the site, keep debris out of drainage ditches, and maintain proper housekeeping practices to the satisfaction of the Director.

When any material is to be disposed of outside of the easement or street or highway right-of-way, the Contractor shall first obtain written permission from the owner on whose property the disposal is to be made. Disposal must conform to grading ordinances of the jurisdiction in which the work is performed.

Upon completion of the work, and prior to requesting final inspection, the Contractor shall thoroughly clean the site of the work of all rubbish, excess materials, falsework, temporary structures, and equipment, and all portions of the work shall be left in a neat and orderly condition. The final inspection, acceptance, and final payment will not be made until this has been accomplished.

4.03 CHANGES & CHANGE ORDERS – The City may increase or decrease quantities of work to be done under the Contract, make revisions to the Drawings or Specifications, or require the performance of extra work and furnishing of materials therefor by the Contractor as the City requires for the proper completion or construction of the whole work contemplated. The City, at its option, may furnish said materials.

When alterations in quantities of work for which unit prices are shown in the proposal are ordered and performed, the adjustment in the contract amount shall be determined on the basis of such unit prices for the actual quantities of work done. Adjustments, if any, in the amount to be paid the Contractor by reason of any other modifications of the work as set forth in a contract change order, shall be determined by one or more of the following methods:

- a. **Lump Sum Price**. By an acceptable lump-sum proposal from the Contractor. Said proposal shall be based on a cost estimate as to materials, equipment, and labor, to which total may be added a maximum of 15 percent for overhead, profit, and all other expenses; this 15 percent limitation shall apply for work done directly by the Contractor's organization or by his/her subcontractors, and shall be added only once.
- b. **Unit Prices**. By unit prices fixed by agreement between the City and the Contractor.
- c. **Force Account**. By ordering the Contractor to proceed with the work and to keep and present in such form as the Director may order, a correct account of the cost of the change, together with all vouchers therefor.

The changes will be set forth in written Contract Change Orders which specify the work to be done in connection with the changes, the basis of compensation for the work, and any adjustments of contract time. Such Change Orders shall be approved by the Director.

Upon receipt of an approved Contract Change Order, or of a written authorization from the Director setting forth a description of the change and agreed upon changes in contract price, the Contractor shall proceed with the work so ordered. The Contractor may request the issuance of Change Orders. In the absence of an approved Contract Change Order or written authorization, the Contractor shall not be entitled to payment for any changed or extra work or any adjustment of Contract time.

When the changes increase or decrease the cost of the work, an adjustment of the Contract price will be made as set forth in the Change Order. At the option of the City, the work which is changed may be paid for on the basis of force account.

New and unforeseen items of work will be classed as extra work when the item cannot be covered by any of the various items or combination of items for which there is a bid price. The Contractor shall do such work and furnish such materials and equipment as may be required in writing by Director, but shall do no extra work except upon written order from the Director, and in the absence of such written order, (s)he shall not be entitled to payment for such extra work. All bills for extra work done in any month shall be filed in writing with the Director before the fifteenth of the following month. For such extra work, the Contractor shall receive compensation at the prices previously agreed upon in writing, or upon a failure to agree upon prices, (s)he shall be paid on force account.

If the work is done on force account, compensation shall be in accordance with Article 9.04 of these Specifications. The City reserves the right to furnish any material deemed expedient and the Contractor shall have no claim for profit on the cost of such materials. All Contractors shall have no claim for profit on the cost of such materials. All extra work shall be adjusted daily upon report sheets furnished to the Director by the Contractor and signed by both parties, which daily reports shall thereafter be considered the true record of extra work done.

4.04 PROTESTS – If the Contractor considers any work demanded of him/her to be outside of the requirements of the Contract, or considers any record or ruling or act or omissions of the Director to be unfair, s/he shall immediately, upon such work being demanded, or such record or ruling being made, ask in writing for written instructions or decision, whereupon (s)he shall proceed without delay to perform the work or to conform to the record or ruling, within 30 days after the date of receipt of the written instruction or decision, (s)he shall file a written protest with the Director stating clearly and in detail the basis of his/her protest. Except for such protests as are made of record in the manner herein specified and within the time limit stated, the records, rulings, instructions, decisions, and acts or omissions of the Director shall be final and conclusive. Instructions and decisions of the Director contained in letters transmitting Drawings to the Contractor shall be considered as written instructions and decisions subject to protest in the manner herein described.

4.05 DUST CONTROL – During the performance of all work under this contract, the Contractor shall assume all responsibility for dust control and shall furnish all labor, equipment, and means required to carry out proper and efficient measures wherever and whenever dust control is necessary to prevent the operations from producing dust damage and nuisance to persons and property. Any claims resulting therefrom shall be borne solely by the Contractor.

Full payment for dust control shall be included in the unit price bid for other items of work and no additional allowance or direct payment will be made therefor.

SECTION 5
CONTROL OF WORK

5.01 AUTHORITY OF DIRECTOR – The Director shall decide all questions which may arise as to the quality or acceptability of materials furnished and work performed and as to the manner of performance and rate or progress of the work; all questions which may arise as to the interpretation of the Drawings and Specifications; and all questions as to the acceptable fulfillment of the Contract on the part of the Contractor. His/her decision shall be final and s/he shall have authority to enforce and make effective such decision and orders which the Contractor fails to carry out promptly.

5.02 DRAWINGS TO BE FURNISHED BY THE CONTRACTOR – The Drawings listed in the Specifications shall be supplemented by the Contractor with such working drawings as may be required for the prosecution of the work and approval of equipment. Such data may include shop detail drawings, reinforcing steel details, fabrication drawings, falsework and formwork drawings, pipe layouts and similar classes of drawings, which shall be favorably reviewed by the Director before any work involving these drawings is performed. No change shall be made by the Contractor in any working drawing after it has been favorably reviewed by the Director. Drawings shall contain all required detailed information of reasonable scale with enough views to clearly show the work to be done or the item to be furnished and shall be properly checked.

Working drawings will be subject to approval insofar as the details affect the character of the finished work, but details of design will be left to the Contractor who shall be responsible for successful construction of the work and operation of the equipment.

It is expressly understood, however, that approval of the Contractor's working drawing shall not relieve the Contractor of any responsibility for accuracy of dimensions and details, or for mutual agreement of dimensions and details. It is mutually agreed, that the Contractor shall be responsible for agreement and conformity of his/her working Drawings and Specifications.

The sequence of submission of working drawings shall be such that all information is available to the Director for review of each drawing as it is received. A minimum of five prints of each working drawing shall be submitted. Three prints will be retained and the balance returned within 20 calendar days with the Director's action indicated thereon. The Contractor shall make any necessary corrections and revisions to returned Drawings and shall resubmit the Drawings in the same routine as before within 20 calendar days after receipt.

Responsibility will be upon the Contractor to furnish Drawings in sufficient time for approval action including resubmittal, without delaying construction.

The cost of furnishing all working Drawings shall be included in the Contract prices for work to which the Drawings are appurtenant.

5.03 DRAWINGS AND DATA TO BE FURNISHED BY THE CITY – The City may issue supplemental Drawings for the construction work under the Contract. These drawings will show additional details as required for construction purposes. Installation instructions for City furnished materials will be furnished if required.

5.04 CONFORMITY WITH DRAWINGS AND ALLOWABLE DEVIATIONS – Finished work in all cases shall conform with the lines, grades, cross sections, and dimensions shown on the approved Drawings furnished by the City. Deviations from the drawings as may be required by the exigencies of construction will be determined by the Director.

5.05 MAINTENANCE & OPERATION MANUALS – For use in the subsequent operation, the Contractor shall furnish two copies of maintenance and operation instructions supplied by the manufacturer for all equipment items. They shall be bound and suitably indexed in heavy, loose leaf binders.

5.06 SUPERINTENDENCE – The Contractor shall designate in writing before starting work, an authorized representative who shall have complete authority to represent and act for the Contractor. Where the Contractor is comprised of two or more persons, partnerships or corporations, functioning on a joint venture basis, said Contractor shall designate in writing to the Director the name of their authorized representative who shall have full authority to direct the work and to whom orders will be given by the Director, to be received and obeyed by the Contractor. Said authorized representative of the Contractor shall normally be present at the site of the work at all time while work is suspended, arrangements acceptable to the Director shall be made for any emergency work which may be required.

Whenever the Contractor or his/her authorized representative is not present on any part of the work where it may be desired to give direction, orders will be given by the Director, which shall be received and obeyed by the Superintendent or foreman or authorized representative who may have charge of the particular work in reference to which the orders are given. Any order given by the Director, which shall be received and obeyed by the Superintendent or foreman or authorized representative who may have charge of the particular work in reference to which the orders are given. Any order given by the director, not otherwise required by the Specifications to be in writing, will, on request of the Contractor, be given or confirmed by the Director in writing.

5.07 LAYOUT OF WORK AND SURVEYS – The work performed in connection with “Survey Monumentation” shall conform to the requirements of the County Surveyor of the County of Santa Cruz, and shall consist of locating, referencing, resetting existing survey monuments to finish grade, and in conformance with these special provisions.

Attention is also directed to Section 8771 of the California Business and Professions Code for the requirements concerning survey monumentation. Existing survey monuments shall be located and referenced by or under the direction of a licensed land surveyor or registered civil engineer prior to construction operations, and a corner record or record of survey shall be filed with the County Surveyor of the County of Santa Cruz. Existing survey monuments shall be reset to finish grade, and a corner record or record of survey shall be filed with the County Surveyor of the County of Santa Cruz prior to the recording of the certificate of completion for the project.

5.08 INSPECTION – The Director and his/her representatives shall at all times have access to the work during its construction and shall be furnished with every reasonable facility for ascertaining that the materials and the work are in accordance with the requirements and intentions of the Drawings and Specifications. All work done and all materials furnished shall be subject to his inspection and approval.

The right of general supervision shall not make the Contractor an agent of the City and the liability of the Contractor for all damages to persons or to public or private property arising from the execution of the work shall not be lessened because of such general supervision.

The day-to-day inspection performed by the various inspectors employed by the City shall not constitute approval or ratification of work improperly done by the Contractor. The Director is the only person authorized to recommend acceptance or rejection of work and materials.

The presence or absence of an inspector during performance of the work shall not relieve the Contractor of any of his/her obligations to fulfill his/her Contract as prescribed. It shall be the duty of the Contractor to see that the provisions of these Specifications are complied with in detail, irrespective of the inspection given the work during its progress by the Director or his representatives. Any plan or method suggested to the Contractor by the Director or an inspector, but not specified or required, if adopted or followed in whole or in part, shall be used at the risk and responsibility of the Contractor; and the City and the Director will assume no responsibility therefor.

Defective work shall be made good, and unsuitable materials may be rejected notwithstanding that such defective work or unsuitable materials have been previously inspected by the Director or that payment therefor has been included in the progress estimate.

Projects financed in whole or part with Federal or State funds shall be subject to inspection at all times by the Federal or State Agency involved.

5.09 REMOVAL OF DEFECTIVE AND UNAUTHORIZED WORKS – All work which has been rejected shall be remedied, or removed and replaced by the Contractor in an acceptable manner at no additional cost to the City. Any work done beyond the lines and grades shown on the Drawings or established by the City, or any extra work done without written authority, will be considered as unauthorized and will not be paid for. Work so done may be ordered, remedied, removed, or replaced, in the City's sole discretion.

If the Contractor should fail to comply promptly with any order of the Director made under the provisions of this Article, the Director may cause rejected or unauthorized work to be remedied, removed, or replaced, and the costs thereof to be deducted from any monies due or to become due the Contractor.

If any portion of the work done or materials furnished under the contract shall prove defective or not in accordance with the specifications and contract drawings, and if the imperfection in the same shall not be of sufficient magnitude or importance to make the work dangerous or undesirable, the Director shall have the right and authority to retain the work instead of requiring it to be removed and reconstructed, but s\he shall make such deductions therefore in the payment due or to become due the Contractor as may be just and reasonable.

5.10 CONSTRUCTION EQUIPMENT AND PLANTS – Only equipment and plants suited to produce the quality of work required will be permitted to operate on the work. Plants shall be designed and constructed in accordance with general practice for such equipment and shall be designed and constructed in accordance with general practice for such equipment and shall be of sufficient capacity and of such character to ensure the production of sufficient material to carry the work to completion within the time limit.

The Contractor shall provide adequate and suitable equipment and plants to meet the above requirements; and, when ordered by the Director, shall remove unsuitable equipment from the work and discontinue the operation of unsatisfactory plant.

Each machine or unit of equipment shall be operated by a person experienced in handling the particular make of machine or unit of equipment in use and shall not be operated at a speed or rate of production in excess of that recommended by the manufacturer.

The Contractor shall identify each piece of equipment, other than hand tools, by means of an identifying number plainly stenciled or stamped on the equipment at a conspicuous location. In addition, the make, model number and empty gross weight of each unit of compacting equipment shall be plainly stamped or stenciled in a conspicuous place on the unit. The gross weight shall be either the manufacturer's rated weight or the scale weight.

5.11 ALTERNATIVE CONSTRUCTION EQUIPMENT – While certain of these Specifications may provide that equipment of a particular size and type is to be used to perform portions of the work, it is to be understood that the development and use of new or improved equipment is to be encouraged.

The Contractor may request, in writing, permission from the Director to use equipment of a different size or type in place of the equipment specified.

The Director, before considering or granting such request, may require the Contractor to furnish, at their expense, evidence satisfactory to the Director that the equipment proposed for use by the Contractor is capable of producing work equal to, or better than, that which can be produced by the equipment specified.

If such permission is granted by the Director, it shall be understood that such permission is granted for the purpose of testing the quality of work actually produced by such equipment and is subject to continuous attainment of results which, in the opinion of the Director, are equal to, or better than that which can be obtained with the equipment specified. The Director shall have the right to withdraw such permission at any time the Director determines that the alternative equipment is not producing work that is equal, in all respects, to that which can be produced by the equipment specified. Upon withdrawal of such permission by the Director, the Contractor will be required to use the equipment originally specified and shall, in accordance with the direction of the Director, remove and dispose of or otherwise remedy, at his/her expense, any defective or unsatisfactory work produced with the alternative equipment.

Neither the City nor the Contractor shall have any claim against the other for either the withholding or the granting of permission to use alternative equipment, or for the withdrawal of such permission.

Permission to use alternative equipment in place of equipment specified will only be granted where such equipment is new or improved and its use is deemed by the Director to be in furtherance of the purposes of this Article. The approval for use of particular equipment on any project shall in no way be considered as an approval of the use of such equipment on any other project.

Nothing in this Article shall relieve the Contractor of his/her responsibility for furnishing materials or producing finished work of the quality specified in these Specifications.

5.12 USE OF COMPLETED PORTIONS – The City shall have the right at any time during the progress of the work, to take over and place in service any completed or partially completed portions

of the work, notwithstanding the fact that time for completion of the entire work or such portions may not have expired; but such taking possessions thereof shall not be deemed an acceptance of any other portions of the work, nor work on those portions not completed in accordance with the contract documents.

5.13 LEGAL ADDRESS OF THE CONTRACTOR – Both the address given in the proposal and Contractor’s office in the vicinity of the work are hereby designated as places to either of which drawings, letters, notices, or other articles of communication to the Contractor may be mailed or delivered. The mailing or delivery at either of these places shall be deemed sufficient notice thereof upon the Contractor. Nothing herein contained shall be deemed to preclude the service of any drawing, letter, notice, article or communication to or upon the Contractor or his/her representative personally. The address named in the proposal may be changed at any time by written notice, from the Contractor to the City.

5.14 FINAL INSPECTION – When the work authorized by the Contract has been completed, the Director will make the final inspection.

5.15 ACCEPTANCE OF CONTRACT – When the Director has made the final inspection in accordance with these Specifications and determines that the Contract has been completed in all respects in accordance with the Drawings and Specifications, the Director will recommend that the City Council formally accept the Work of Improvement.

5.16 COORDINATION OF SPECIFICATIONS AND DRAWINGS – The Standard Provisions, Technical Provisions, Special Provisions, Drawings, Contract Change Orders, and all supplementary documents are essential parts of the Contract, and a requirement occurring in one is as binding as though occurring in all. They are intended to be complementary and to describe and provide for a complete work. In case of conflict, the following shall be the rules of interpretation:

Drawings shall govern over the Standard Provisions; the Technical Provisions shall govern over both the Standard Provisions and the Drawings; the Special Provisions shall govern over the Technical Provisions, the Standard Provisions and the Drawings.

Detail Drawings shall govern over general Drawings. Figures written on Drawings shall govern over the drawings themselves.

5.17 INTERPRETATION OF SPECIFICATIONS AND DRAWINGS – The work herein provided for is to be done in accordance with the Specifications and Drawings on file in the Department of Public Works. All corrections of readily apparent errors or omissions in Specifications or Drawings may be made by the Director when such corrections are necessary for the proper fulfillment of their intention as construed by him/her. The misplacement, addition or omission of any work, letter, figure or punctuation mark which has no substantive legal effect will in no way change the due spirit, intent, or meaning of these Specifications.

Any part of the work which is not mentioned in these Specifications but is shown on the Drawings, or any part of the work not shown on the Drawings but described in these Specifications, or any part not shown on the Drawings or described in these Specifications but which is reasonably or ordinarily implied by either, shall be furnished and installed by the Contractor as if fully described in these Specifications and shown upon the Drawings.

Should it appear that the work to be done or any of the matters relative thereto are not sufficiently detailed or explained in the Specifications or on the Drawings, or if the Contractor discovers any

discrepancies during the course of the work between the Contract Drawings and conditions in the field, or any errors or omissions in the Contract Drawings, the Specifications, or in the layout given by stakes, points, or instructions, the bidder or Contractor shall apply in writing to the Director for such further explanations as may be necessary and shall conform to them as part of the Contract. In the event of any doubt or questions arising respecting the true meaning of the Specifications or Drawings, reference shall be made in writing to the Director, whose decision thereon shall be final. Any work done after such discovery until authorized by the Director, will be done at the Contractor's risk.

5.18 STATE SPECIFICATIONS – Where specifically required and referenced, the work set forth in these Specifications shall be accomplished in accordance with appropriate provisions of the State Specifications with most recent revisions insofar as they apply. Said Specifications are herein referred to as the "State Specifications" and are, by reference, made a part of these Specifications the same as though as set out in full. In the event of conflict between the State Specifications and the Standard, Special, or Technical Provisions of the City's Special Project Specifications or the Drawings, the City's Special Project Specifications and Drawings shall apply.

5.19 REASONABLENESS OF INTERPRETATIONS – All interpretations of these Specifications and the Drawings by the City and decisions made thereon by the Director will not be arbitrary, capricious, or unreasonable.

5.20 POTENTIAL CLAIMS AND DISPUTE RESOLUTION – No claims for extra work, materials, labor, equipment, or costs shall be considered or permitted if Contractor fails to timely notify the City of the claim and thereafter diligently pursue and exhaust all the administrative remedies and processes set forth in the Contract Documents and State Specifications, including but not limited to Change Orders, Differing Site Conditions, Initial Potential Claim Records, Supplemental Potential Claim Records, and Full and Final Potential Claims Records. Contractor must exhaust all such processes in order to preserve and pursue any claim, and failure to do so shall be deemed a waiver of the claim.

- A. In accordance with California Public Contract Code Section 20104.2, presuming Contractor has diligently pursued and exhausted the administrative procedures of the Contract, the following procedures apply to claims of \$375,000 or less between the Contractor and the City:
 - 1. The claim shall be in writing and include the documents necessary to substantiate the claim. Claims must be filed on or before the date of final payment. Nothing in this subdivision is intended to extend the time limit or supersede notice requirements otherwise provided by contract for the filing of claims.
 - 2. For claims of less than fifty thousand dollars (\$50,000), the City shall respond in writing to any written claim within 45 days of receipt of the claim, or may request, in writing, within 30 days of receipt of the claim, any additional documentation supporting the claim or relating to defenses to the claim the City may have against the Contractor.
 - i. If additional information is thereafter required, it shall be requested and provided pursuant to this subdivision, upon mutual agreement of the City and the Contractor.
 - ii. The City's written response to the claim, as further documented, shall be submitted to the Contractor within 15 days after receipt of the further

documentation or within a period of time no greater than that taken by the Contractor in producing the additional information, whichever is greater.

3. For claims of over fifty thousand dollars (\$50,000) and less than or equal to three hundred seventy-five thousand dollars (\$375,000), the City shall respond in writing to all written claims within 60 days of receipt of the claim, or may request, in writing, within 30 days of receipt of the claim, any additional documentation supporting the claim or relating to defenses to the claim the City may have against the Contractor.
 - i. If additional information is thereafter required, it shall be requested and provided pursuant to this subdivision, upon mutual agreement of the City and the Contractor.
 - ii. The City's written response to the claim, as further documented, shall be submitted to the Contractor within 30 days after receipt of the further documentation, or within a period of time no greater than that taken by the Contractor in producing the additional information or requested documentation, whichever is greater.
 4. If the Contractor disputes the City's written response, or the City fails to respond within the time prescribed, the Contractor may so notify the City, in writing, either within 15 days of receipt of the City's response or within 15 days of the City's failure to respond within the time prescribed, respectively, and demand an informal conference to meet and confer for settlement of the issues in dispute. Upon a demand, the City shall schedule a meet and confer conference within 30 days for settlement of the dispute.
 5. Following the meet and confer conference, if the claim or any portion remains in dispute, the Contractor shall file a claim for money or damages as provided in Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code, prior to filing a civil action to resolve the disputed claim. For purposes of those provisions, the running of the period of time within which a claim must be filed shall be tolled from the time the Contractor submits his or her written claim pursuant to subdivision (a) until the time that claim is denied as a result of the meet and confer process, including any period of time utilized by the meet and confer process.
 6. This article does not apply to tort claims and nothing in this article is intended nor shall be construed to change the time periods for filing tort claims or actions specified by Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code.
- B. In accordance with California Public Contract Code Section 20104.4, the following procedures apply to civil actions to resolve claims of \$375,000 or less between the City and the Contractor:

1. Within 60 days, but no earlier than 30 days, following the filing or responsive pleadings, the court shall submit the matter to non-binding mediation unless waived by mutual stipulation of both parties. The mediation process shall provide for the selection within 15 days by both parties of a disinterested third person as mediator, shall be commenced within 30 days of the submittal, and shall be concluded within 15 days from the commencement of the mediation unless a time requirement is extended upon a good cause showing to the court or by stipulation of both parties. If the parties fail to select a mediator within the 15-day period, any party may petition the court to appoint the mediator.
 2. If the matter remains in dispute, the case shall be submitted to judicial arbitration pursuant to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, notwithstanding Section 1141.11 of that code. The Civil Discovery Act of 1986 (Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure) shall apply to any proceeding brought under this subdivision consistent with the rules pertaining to judicial arbitration.
 - i. Notwithstanding any other provision of law, upon stipulation of the parties, arbitrators appointed for purposes of this article shall be experienced in construction law, and, upon stipulation of the parties, mediators and arbitrators shall be paid necessary and reasonable hourly rates of pay not to exceed their customary rate, and such fees and expenses shall be paid equally by the parties, except in the case of arbitration where the arbitrator, for good cause, determines a different division. In no event shall these fees or expenses be paid by state or county funds.
 - ii. In addition to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, any party who after receiving an arbitration award requests a trial de novo but does not obtain a more favorable judgment shall, in addition to payment of costs and fees under that chapter, pay the attorney's fees of the other party arising out of the trial de novo.
 3. The court may, upon request by any party, order any witnesses to participate in the mediation or arbitration process.
- C. In accordance with California Public Contract Code Section 20104.6:
1. The City shall not fail to pay money as to any portion of a claim which is undisputed except as otherwise provided in the contract.
 2. In any suit filed under Public Contract Code Section 20104.4 concerning this contract, the City shall pay interest at the legal rate on any arbitration award or judgment. Such interest shall accrue from date the suit was filed.
- D. Claim for money or damages required. For any all claim not covered the procedures set forth in Article 5.20, Contractor shall file a claim for money or damages as provided in

Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code, prior to filing a civil action to resolve the claim. For purposes of those provisions, the running of the period of time within which a claim must be filed shall be tolled from the time the Contractor submits his or her written claim pursuant to subdivision (a) until the time that claim is denied by the City, including any period of time utilized by the meet and confer process.

SECTION 6

CONTROL OF MATERIALS AND INSTALLED EQUIPMENT

6.01 FURNISHING AND QUALITY OF MATERIALS & EQUIPMENT – The Contractor shall furnish all materials and equipment required to complete the work, except materials or equipment that are designated in the Special Provisions to be furnished by the City or materials furnished by the City in accordance with Article 4.03.

Notwithstanding any prior inspection or approval, only materials and equipment conforming to the requirements of the Specifications shall be incorporated in the work.

The materials and equipment furnished and used shall be new and unused and of the highest commercial quality currently available. The materials and equipment shall be manufactured, handled, and used in a workmanlike manner to ensure completed work in accordance with the Drawings and Specifications.

The Contractor shall be required to furnish a written guaranty covering certain items of material and equipment for varying periods of time from the date of acceptance of the Work of Improvement. The material and equipment to be guaranteed, the form of guaranty, and the time limit of the guaranty are as specified in Article 9.09. Said guaranty shall be signed and delivered to the Director before Acceptance of the Project. Upon completion of the Work of Improvement, the amounts of the Contract bonds required in Article 3.04 may be reduced to conform to the total amount of the Contract bid prices for the items to be guaranteed and this amount shall continue in full force and effect for the duration of the guaranty period.

6.02 SOURCE OF MATERIAL AND EQUIPMENT - The Contractor shall furnish a list of his/her sources of materials and equipment to the Director. The list shall be furnished on a City form and shall be furnished to the Director in sufficient time to permit proper inspection and testing of materials and equipment to be furnished from such listed sources in advance of their use. The Contractor shall furnish without charge such samples as may be required. Inspection and tests will be made and reports rendered, but it is understood that such inspection and tests shall not be considered as a guarantee of acceptance of any material or equipment which may be delivered later for incorporation in the work. No equipment or materials which, after approval, have in any way become unfit for use, shall be used in the work.

The Contractor shall submit five copies of approval data for the mechanical and electrical materials, and equipment proposed for installation. The data shall be submitted in the same routine as prescribed for working drawings in Article 5.02. Approval data shall consist of complete material and equipment lists accompanied by catalog data sheets, cuts, performance curves, diagrams or similar descriptive material. Material and equipment lists shall give, in each case, the name of the manufacturer, trade name, catalog reference, size, finish, and all other pertinent data. It is intended that approval data should not include such materials as small pipe and small pipe fittings, conduit and conduit fittings, or tubing. Data submitted as specified herein for each major subdivision of mechanical and electrical work shall be bound together under a hard cover, provided with a complete index, and properly identified on the cover. Individual sheets shall be easily removable without tearing or other damage. The Contractor shall furnish operation and maintenance manuals or instructions if required by the Technical Provisions.

At the option of the Director, the source of supply of each of the materials shall be approved by him/her before the delivery is started. All materials proposed for use may be inspected or tested at any time during their preparation and use. After trial, if it is found that sources of supply which appeared satisfactory do not furnish a uniform product, or if the product from any source proves unacceptable at any time, the Contractor shall furnish approved material from other sources.

6.03 STORAGE OF MATERIALS AND EQUIPMENT - Materials and equipment shall be so stored as to ensure the preservation of their quality and fitness for the work. They shall be placed under cover when directed and shall be sorted in a manner that will facilitate prompt inspection. Unless specifically authorized by the Director, no materials shall be stored overnight upon any public right of way within the City.

6.04 DEFECTIVE MATERIALS - All materials not conforming to the requirements of the Specifications and Drawings shall be considered as defective and all such materials shall be rejected, whether in place or not. They shall be removed immediately from the site of the work, unless otherwise permitted by the Director. No rejected material, the defects of which have been subsequently corrected, shall be used unless approval in writing has been given by the Director. If the Contractor should fail to comply promptly with any order of the Director made under the provisions of this Article, the Director may cause defective materials to be removed and replaced, and the costs thereof to be deducted from any monies due or to become due the Contractor.

6.05 TRADE NAMES AND ALTERNATIVES - For convenience in designation on the Drawings or in the Specifications, certain equipment or materials to be incorporated in the work may be designated under a trade name or the name of a manufacturer and his/her catalog information. The use of alternative equipment or material which is of equal quality and of the required characteristics for the purpose intended will be permitted, subject to the following requirements:

The burden of proof as to the comparative quality and suitability of alternative equipment or materials shall be upon the Contractor and s/he shall furnish, at their own expense, six copies of complete description, information and performance data showing the quality of the materials or equipment offered to those specified, and such other necessary or related information as may be required by the Director. The Director will be the sole judge as to the comparative quality and suitability of alternative equipment or materials and this decision shall be final. The Contractor, pursuant to Public Contract Code, Section 3400 et seq., shall have at least 35 days after award of the Contract for submission of data substantiating a request for a substitution of "or equal" item.

6.06 TESTING MATERIALS - Unless otherwise specified in the Special Provisions or Technical Provisions called for on the drawings, all tests of materials and work, for determining compliance with requirement, shall be performed in accordance with the methods in use by the laboratory of the State Department of Transportation or by nationally recognized testing organizations, at a laboratory approved by the Director.

Whenever a reference is made to a specification or test method either of the American Society of Testing Materials, the American Water Works Association, or any other authority, and the number accompanying the specification or test method representing the year of its acceptance is omitted, the reference shall mean the specification or test method in effect on the date of the Notice to Contractors.

Whenever a specification or test method of the American Society for Testing Materials, the American Water Works Association, or any other authority, includes a test procedure or test requirements, the Contractor shall submit two copies of certified test results, unless the requirement therefore is waived. No material will be accepted until these data have been passed upon by the Director and accepted.

Samples of all materials entering into the work shall be furnished by the Contractor without charge, when requested by the Director.

Materials may be tested at any time during progress of the work.

6.07 PLANT INSPECTION - Materials and equipment which become a part of the completed work will be subject to inspection at the place of production or manufacture, at the shipping point, or at the site of the work. Materials and equipment requiring inspection at the place of production or manufacture will be designated by the Director. Where plant inspection is so designated, the Director shall be given 14 days advance notice of the start of manufacture or production. The Contractor's purchase orders for materials and equipment for which plant inspection has been designated by the Director shall bear a suitable notation advising suppliers and subcontractors of inspection requirements.

The Director or an authorized representative shall have free entry at all times to such parts of the plant as concerns the manufacture or production of materials and equipment for the City. Adequate facilities shall be furnished free of charge to make the necessary inspection.

The City assumes no obligation to inspect material or equipment at the place of manufacture or production, or at the shipping point.

6.08 CITY FURNISHED MATERIALS - Materials furnished by the City will be available at locations designated in the Special Provisions. They shall be loaded, unloaded and hauled to the site of the work by the Contractor at his/her expense. The Contractor shall be held responsible for all materials furnished to him/her, and s/he shall pay all demurrage and storage charges. The cost of handling and placing City furnished material shall be considered as included in the price paid for the Contract item involving such City furnished material.

SECTION 7

LEGAL RELATIONS AND RESPONSIBILITY

7.01 LAWS TO BE OBSERVED – The Contractor shall remain fully informed of all existing and future State and Federal laws and County and Municipal ordinances and regulations which in any manner affect those engaged or employed in the work, or the materials used in the work, or which in any way affect the conduct of the work, and of all such orders and decrees of bodies or tribunals having any jurisdiction or authority over the same. S\he shall at all times observe and comply with, and shall cause all his/her agents and employees to observe and comply with, all such applicable existing and future laws, ordinances, regulations, orders and decrees of bodies or tribunals having any jurisdiction of authority over the work; and shall protect and indemnify the City, the City Council, the Director and Consulting Engineer, and all of its and their officers and agents and servants against any claim or liability arising from or based on the violation of any such law, ordinance, regulation, order, or decree, whether by him or herself or his/her employees. If any discrepancy or inconsistency is discovered in the Drawings, Specifications, or Contract for the work in relation to any such law, ordinance, regulation order, or decree, the Contractor shall forthwith report the same to the Director in writing.

7.02 LABOR DISCRIMINATION – Attention is directed to the following sections of the Labor Code:

1735. No discrimination shall be made in the employment of persons upon Public Works because of race, color, national origin or ancestry, or religion of such persons and every Contractor for Public Works violating this section is subject to all the penalties imposed for a violation of this chapter.

1420. It shall be unlawful employment practice, unless based upon a bonafide occupational qualification, or except where based upon applicable security regulations established by the United States or the States or the State of California:

(a) For an employer, because of the race, religious creed, color, national origin, or ancestry of any person, to refuse to hire or employ him/her or to bar or to discharge from employment such person, or to discriminate against such person in compensation or in terms, conditions or privileges of employment.

Contractor agrees to abide by all of the foregoing statutes, regulations, ordinances and resolutions.

7.03 REMOVED.

7.04 PREVAILING WAGES, APPRENTICESHIP, PAYROLL RECORDS – In accordance with California Labor Code Section 1773.2, the City has determined the general prevailing wages in the locality in which the work is to be performed for each craft or type of work needed to be as published by the State of California Department of Industrial Relations, Division of Labor Statistics and Research, a copy of which is on file in the Public Works Department and shall be made available on request. The Contractor shall cause a copy of these wage rates to be posted at each job site. The Contractor and subcontractors engaged in the performance of the Work shall pay no less than these rates to all persons engaged in performance of the Work. These rates are set forth in the Notice to Contractors and excludes contracts for projects of \$25,000 or less for construction work, or projects of \$15,000 or less for alteration, demolition, repair, or maintenance work.

In accordance with California Labor Code Section 1777.5, the Contractor, on behalf of the Contractor and any subcontractors engaged in performance of the Work, will be responsible for ensuring compliance with California Labor Code Section 1777.5 governing employment and payment of apprentices on public works contracts.

In accordance with California Labor Code Section 1775, the Contractor and any Subcontractors engaged in performance of the Work shall forfeit a penalty of up to \$200 per day for each worker engaged in the performance of the Work that the Contractor or any subcontractor pays less than the specified prevailing wage. The amount of such penalty shall be determined by the Labor Commissioner. The Contractor or subcontractor shall pay the difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate. If a subcontractor worker engaged in performance of the Work is not paid the general prevailing per diem wages by the subcontractor, the Contractor is not liable for any penalties therefore unless the Contractor had knowledge of that failure or unless the Contractor fails to comply with all of the following requirements:

1. The contract executed between the Contractor and the subcontractor for the performance of part of the Work must include a copy of the provisions of California Labor Code Sections 1771, 1775, 1776, 1777.5, 1813, and 1815.
2. The Contractor must monitor payment of the specified general prevailing rate of per diem wages by the subcontractor by periodic review of the subcontractor's certified payroll records.
3. Upon becoming aware of a subcontractor's failure to pay the specified prevailing rate of wages, the Contractor must diligently take corrective action to halt or rectify the failure, including, but not limited to, retaining sufficient funds due the subcontractor for performance of the Work.
4. Prior to making final payment to the subcontractor, the Contractor must obtain an affidavit signed under penalty of perjury from the subcontractor that the subcontractor has paid the specified general prevailing rate of per diem wages employees engaged in the performance of the Work and any amounts due pursuant to California Labor Code Section 1813.

In accordance with California Labor Code Section 1776, the Contractor and each subcontractor engaged in performance of the Work, must keep accurate payroll records showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed in performance of the Work. Each payroll record must contain or be verified by a written declaration that it is made under penalty of perjury, stating that the information contained in the payroll record is true and correct and that the employer has complied with the requirements of Sections 1771, 1811, and 1815 for any work performed by the employer's employees on the public works project. The payroll records required pursuant to California Labor Code Section 1776 must be certified and must be available for inspection by the City and its authorized representatives, the Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards of the Department of Industrial Relations and must otherwise be available for inspection in accordance with California Labor Code Section 1776. Contractor and their subcontractors shall furnish the payroll records specified in Labor Code section 1776 directly to the Labor Commissioner in the manner required by Labor Code section 1771.4.

The work of installing, assembling, repairing or reconditioning, or other work of any nature on machinery, equipment, or tools used in or upon the work shall be considered a part of the work to be

performed under the Contract any laborers, workers, or mechanics working on such machinery, equipment, or too

The construction, erection, and operation of material production, proportioning, or mixing plants from which material is used wholly on the Contract or on contracts under the supervision of the City, shall be considered a part of the work to performed under the Contract and any laborers, workers, or mechanics working on such plants shall be subject to all of the requirements relating to labor set forth in the Contract.

In case it becomes necessary for the Contractor or any subcontractor engaged in performance of the Work to employ on the Work any person in a trade or occupation (except executive, supervisory, administrative, clerical, or other non-manual workers as such) for which no minimum wage rate has been determined by the Director of the Department of Industrial Relations, the Contractor must pay the minimum rate of wages specified therein for the classification which most nearly corresponds to Work to be performed by that person. The minimum rate thus furnished will be applicable as a minimum for such trade or occupation from the time of the initial employment of the person affected and during the continuance of such employment.

7.05 HOURS OF LABOR – Eight hours labor constitutes a legal day’s work. The Contractor shall forfeit as a penalty to the City up to \$25 for each worker employed in the execution of the Contract by the Contractor or by any subcontractor for each day during which such worker is required or permitted to labor more than eight hours in any one calendar day and 40 hours in any one calendar week in violation of Labor Code Sections 1810 to 1815, inclusive, except as provided for under Labor Code Section 1815.

7.06 APPRENTICES – The Contractor’s attention is directed to the provisions of 1770 *et seq.* of the Labor Code concerning the employment of apprentices by the Contractor or any Subcontractor under him\her.

Section 1777.5, as amended, requires the Contractor or subcontractor employing tradespersons in any apprenticeship occupation to apply to the joint apprenticeship committee nearest the site of the Public Works project and which administers the apprenticeship program in that trade for a certificate of approval. The certificate will also fix the ratio of apprentices to journeymen that will be used on the performance of the Contract. The ratio of apprentices to journeymen in such cases shall not be less than one to five except:

- A. When unemployment in the area of coverage by the Joint Apprenticeship committee has exceeded an average of 15 percent in the 3 months prior to the request for certificate,
- B. When the number of apprentices in training in the area exceeds a ratio of one to five,
- C. When the trade can show that it is replacing at least 1/30 of its membership through apprenticeship training on an annual basis statewide or locally, or
- D. When assignment of an apprentice to any work performed under a public works contract would create a condition that would jeopardize his or her life or the life, safety, or property of fellow employees or the public at large, or the specific task to which the apprentice is to be assigned is of a nature that training cannot be provided by a journeyman.

The Contractor is required to make contributions to funds established for the administration of apprenticeship programs if (s)he employs registered apprentices or journeymen in any apprenticeship trade on such contracts and if other Contractors on the Public Works site are making such contributions.

The Contractor and any subcontractor under him/her shall comply with the requirements of Sections 1777.5 and 1777.6 in the employment of apprentices.

Information relative to apprenticeship standards, wage schedules, and other requirements may be obtained from the Director of Industrial Relations, ex-officio the Administrator of Apprenticeship, San Francisco, California, or from the Division of Apprenticeship standards and its branch offices.

7.07 PERMITS AND LICENSES – The Contractor shall procure all permits and licenses, pay all charges and fees, and give all notices necessary and incident to the due and lawful prosecution of the work, except as specifically provided otherwise in the Special Provisions or Technical Provisions.

7.08 PATENTS AND COPYRIGHTS – The Contractor shall assume all costs arising from the use of, and shall indemnify, defend, hold harmless, and save the City and the Council, its officers, agents, and employees, harmless from liability of any nature and kind, including costs and expenses, for or on account of any copyrighted or uncopied composition, secret process, patented or unpatented invention, article, equipment, device, or appliance manufactured, furnished, or used by him/her in the performance of the Contract, including their use by the City, unless otherwise specifically stipulated in the Specifications.

7.09 SANITARY FACILITIES – The Contractor shall conform to the rules and regulations pertaining to sanitary provisions as established by the State of California, the County of Santa Cruz and the City of Capitola, as may be applicable.

7.10 PUBLIC SAFETY – In accordance with generally accepted construction practices and applicable law, the Contractor will be solely and completely responsible for conditions of the Work site, including safety of all persons and property during performance of the Work. This requirement will apply continuously and not be limited to normal working hours. For purposes of California Labor Code Section 6400 and related provisions of law the Contractor and the Contractor's privities and any other entities engaged in the performance of the Work will be "employers" responsible for furnishing employment and a place of employment that is safe and healthful for the employees, if any, of such entities engaged in the performance of the Work. Neither the City nor its officials, officers, employees, agents, volunteers or consultants will be "employers" pursuant to California Labor Code Section 6400 and related provisions of law with respect to the Contractor, the Contractor's privities or other entities engaged in the performance of the Work.

Furthermore, the Contractor shall, at his/her own expense, furnish, erect and maintain such fences, barriers, lights, bridges, and signs and provide such flaggers and guards as are necessary to give adequate warning to the public of the construction and of any dangerous conditions to be encountered as a result thereof.

No material or equipment shall be stored where it will interfere with the safe passage of public traffic, and at the end of each day's work and at other times when construction operations are suspended for any reason, the Contractor shall remove all equipment and other obstructions from that portion of the roadway open for use by public traffic. Spillage resulting from hauling operations along or across any public traveled way shall be removed promptly.

Whenever the Contractor's operations require one-way traffic or creates a condition hazardous to the public traffic, s\he shall provide and station competent flaggers whose sole duties shall consist of directing the movement of public traffic through or around the work.

7.11 ACCIDENT PREVENTION – The Contractor shall comply with all pertinent safety orders of the State of California, Department of Industrial Relations, Division of Industrial Safety, and U.S. Department of Labor, OSHA, and will also take or cause to be taken such additional measures as may be necessary for the prevention of accidents.

Prior to commencement of work, the Contractor shall (1) submit in writing the proposals for effectuating his/her provisions for accident prevention, and (2) meet in conference with the Director to discuss and develop mutual understandings relative to administration of an overall safety program.

During the performance of work under the Contract, the Contractor shall institute controls and procedures for the control and safety of persons visiting the job site.

The Contractor shall maintain an accurate record of, and shall report to, the Director in writing, exposure data and all accidents resulting in death, traumatic injury, occupational disease, or damage to property, materials, supplies or equipment incident to work performed under the Contract.

The Director will notify the Contractor of any noncompliance with the foregoing provisions. The Contractor shall after receipt of such notice, immediately take corrective action. If the Contractor fails or refuses to comply immediately, the matter will be referred to the proper authority. No part of the time lost due to any stop order issued by proper authority shall be made the subject or claim for extension of time for extra costs or damages by the Contractor.

Compliance with the provisions of this Article by subcontractors will be the responsibility of the Contractor.

No direct payment will be made by reason of the provisions of this Article and all costs in connection therewith shall be included in the prices paid for various contract items of work.

7.12 EXPLOSIVES AND STREAM POLLUTION – When the use of explosives is necessary for the prosecution of work, the Contractor shall not endanger life or property, and will be required to obtain a permit for use of explosives within City limits. All explosives shall be stored in accordance with the provisions of Division XI of the Health and Safety Code, and any applicable County or local ordinances.

Attention is called to the necessity of obtaining a permit from the Department of Fish and Wildlife of the State of California in advance of use of underwater explosives. Attention is directed to the Fish and Game Code relating to stream pollution, particularly, Section 5650.

7.13 FIRES – The Contractor shall obtain any necessary fire permits from the properly constituted authority and comply with all regulations of the County in which the work is to be performed.

7.14 INTERFERENCE WITH FIRE HYDRANTS, HIGHWAYS, AND FENCES – The Contractor shall so conduct his/her operations so as not to close or obstruct any portion of any highway, road, or street, or prevent in any way free access to fire hydrants until s\he has obtained permits therefor from the proper authorities. If any highway required to be kept open shall be rendered unsafe by the Contractor's operation s\he shall make such repairs or provide such temporary guards as shall be acceptable to the authorities having jurisdiction and to the Director. Any highway or street maintenance or repair work required by local authorities in connection with necessary operations

under the Contract shall be performed by the Contractor at his/her own cost and expense. Fences subject to interference shall be maintained as effective barriers consistent with the original intent, but upon approval of the Director, they may be moved or rearranged to facilitate prosecution of the work until the work is finished, after which they shall be restored to their original or better condition.

7.15 PRESERVATION OF PROPERTY – Due care shall be exercised to avoid damage to existing improvements, utility facilities, and adjacent property. The fact that any pipe or underground facility is not shown on the drawings shall not relieve the Contractor of responsibility or ascertaining the existence of any underground improvements or facilities which may be subject to damage by reason of the operation.

Any obstruction along the line of work, such as mail-boxes or paper-boxes, posts, fences, culverts, improvements, etc., which interferes with the Contractor's operation shall be carefully removed and replaced by the Contractor as soon as possible in a satisfactory condition. Trees and shrubbery that are not to be removed, and pole lines, fences, signs, survey markers and monuments, buildings and structures, conduits, under- or above-ground pipelines, and any other improvements and facilities adjacent to the work shall be protected from injury or damage, and if ordered by the Director, the Contractor shall provide and install suitable safeguards to protect such objects from injury or damage.

If such objects are injured or damaged by reason of the Contractor's operations they shall be replaced or restored at the Contractor's expense. The facilities shall be replaced or restored to a condition as good as when the Contractor entered upon the work, or as good as required by the Specifications accompanying the work being performed under the Contract. When it becomes necessary for the Contractor to remove an existing fence as an obstruction to the work, the Contractor shall provide the necessary temporary fencing to be functionally as effective as the original for protection of livestock, equipment, or property.

Only those trees specifically designated for removal on the contract drawings shall be removed except with specific approval of the Director. Tree branches that extend over the work and must be removed, shall be cut off at the bole in a competent manner. The Contractor shall then remove other branches so that the tree will present a balanced appearance. Scars resulting from the removal of branches shall be treated with a heavy coat of an approved tree seal. The Director may make or cause to be made such temporary repairs as are necessary to restore to service any damaged facility.

The cost of such repairs shall be borne by the Contractor and may be deducted from any monies due or to become due the Contractor under the Contract.

No direct payment will be made by reason of the provisions of this article and all costs in connection therewith shall be included in the prices paid for the various contract items of work.

The Contractor, employee, and agents, shall at all times observe and comply with all conditions imposed by any instrument granting the right to enter upon property for the purpose of performing the work provided for herein, including, but not limited to, all conditions relative to the prevention and suppression of fires.

7.16 PUBLIC CONVENIENCE – Unless otherwise provided in the Special Provisions, all public traffic shall be permitted to pass through the work, and the Contractor shall so conduct operations as to offer the least possible obstruction and inconvenience to the public. The Contractor shall have under construction not greater length or amount of work than can be prosecuted properly with due regard to the rights of the public, and the Director shall be the sole judge of the length or amount of work which will afford proper convenience to the public.

In addition to the requirements for furnishing facilities for public safety as specified in Article 7.10, the Contractor shall erect such warning and directional signs as may be necessary, for expediting the passage of public traffic through or around the work and the approaches thereto. All such signs and traffic maintenance shall be subject to the approval of the Director, and (s)he shall be notified 24 hours in advance of any disturbance of existing traffic patterns. No changes shall be made until approved by the Director.

Traffic signs, existing within the limits of the project, such as STOP signs, shall be maintained in an upright secure position, and located so as to properly control traffic, whenever it is necessary to remove them from their permanent location due to construction of the work, and shall be reinstalled in their permanent location at the earliest possible time.

Where pipelines are to be installed under the contract across certain designated streets or highways, as noted on the plans, the Contractor will only be permitted to open the trench one-half the width of the pavement at any one time so that one-way traffic can be maintained.

Construction operations shall also be conducted in such a manner as to cause as little inconvenience as possible to abutting property owners. Water or dust palliative shall be applied if ordered by the Director for the alleviation or prevention of dust nuisance caused by the Contractor's operations. Convenient access to driveways, houses, and buildings along the line of work shall be maintained fully by the Contractor, and temporary approaches to crossings or intersecting roads or streets shall be provided and kept in good condition. When traffic control signals are shut down as provided in Section 86-1.05 of the State Specifications, the Contractor shall control traffic by use of flaggers, as directed by the Director, at those locations set forth in the Special Provisions. No STOP signs will be permitted at these locations. The flaggers required for this operation shall be paid for by the Contractor.

All of the foregoing requirements shall apply on weekends and holidays, if considered necessary by the Director. The Director may take action as necessary to provide for public convenience and charge the cost thereof to the Contractor if no representative of the Contractor is available to do same.

7.17 CONTRACTOR'S RESPONSIBILITY FOR WORK – Until the formal acceptance of the work, the Contractor shall have the charge and care of the work and of the materials to be used therein, and shall bear the risk of injury, loss, or damage, to any part thereof by the action of the elements or from any other cause, whether arising from the execution or from the non-execution of the work. The materials to be used in the work include both those furnished by the City and those furnished by the Contractor, including materials for which the Contractor has received partial payment as provided in Article 9.06.

7.18 RESPONSIBILITY FOR DAMAGES; INDEMNIFICATION – The City, the City Council, the Engineer, and all officers and employees of the City shall not be answerable or accountable in any manner, for any loss or damage that may occur to the work or any part thereof; or for any of the materials or other things used or employed in performing the work; or for injury to any person or persons, either workers or the public; for damage to property from any cause which might have been prevented by the Contractor or his/her workers, or anyone employed by his/her; against all of which injuries or damages to persons and property the Contractor having control over such work must properly guard.

The Contractor shall be responsible for any damage to any person or property resulting from defects or obstructions or from any cause whatsoever during the progress of work or at any time before its

completion and final acceptance and during the period of the project guarantee. To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless the City and its Directors, officers, officials, members, managers, departments, divisions, agents, representatives, volunteers, and employees (collectively "Indemnitee(s)"), from and against any and all claims, suits, actions, legal or administrative proceedings, judgments, debts, demands, injuries (including, without limitation, injury or death to any person or persons), damages (including, without limitation, damage to any property including loss of use resulting therefrom, and incidental and consequential damages), liabilities, losses, debts, interest, penalties, costs, attorneys' fees, and expenses of whatsoever kind of nature (collectively "Loss(es)"), whether arising before, during, or after commencement or completion of this Contract, which in any manner, directly or indirectly, in whole or in part, result from, relate to, or arise from (or are claimed to result from, relate to, or arise from) the work called for by this Contract, or any act, omission, fault, recklessness, negligence (whether active or passive), or willful misconduct of Contractor or any of his/her/its subcontractors, or any of their respective officers, directors, agents, employees, or anyone acting under their direction, authority, control, or on their behalf or for whose acts or omissions either of them may be liable (collectively "Contractor Agent(s)"), or the condition of the premises while in the control of the Contractor or any Contractor Agent, even though the same may have resulted from the joint, concurrent, or contributory negligence, or from the passive negligence of an Indemnitee or any other person or persons. Except as provided in Section 3.07, this provision shall not be deemed to require the Contractor to indemnify the City or other Indemnitee for any Loss proximately caused by the sole negligence of an Indemnitee, or to the extent such Loss is proximately caused by the active negligence or willful misconduct of an Indemnitee. Notwithstanding anything to the contrary contained herein, Contractor's indemnification obligations shall not apply to the extent that such indemnity is void or otherwise unenforceable under applicable law in effect on or validly retroactive to the date of the Contract.

Contractor specifically acknowledges and agrees that he/she/it has an immediate and independent obligation to defend the City and the other Indemnitees from any Loss that falls within the scope of this Section 7.18 (Responsibility for Damages; Indemnification), which obligation arises at the time such Loss is tendered to Contractor by the Indemnitee and continues at all times until finally resolved.

Contractor's obligations under this Section 7.18 will survive the termination of the Contract.

7.19 PAYMENT OF TAXES – The Contract prices paid for the work shall include full compensation for all taxes which the Contractor is required to pay, whether imposed by the Federal, State or local government.

7.20 COOPERATION BETWEEN CONTRACTORS – Should construction be underway by other forces or by other Contractors within or adjacent to the limits of the work specified or should work of any other nature be underway by other forces within or adjacent to said limits, the Contractor shall cooperate with all such other Contractors or other forces to the end that any unnecessary delay or hindrance to their work will be avoided. The right is reserved to perform other or additional work at or near the site (including designated material sources) at any time by the use of other forces.

When two or more Contractors are employed on related or adjacent work, or are to obtain materials from the same designated material source, each shall conduct his/her operations in such a manner as not to cause any unnecessary delay or hindrance to the other. Each Contractor shall be responsible to the other for all damage to work, to person or property caused to the other by his/her operations, and for loss caused the other due to his/her unnecessary delays or failure to finish the work within the time specified for completion.

7.21 PROPERTY RIGHTS IN MATERIAL – Nothing in the contract shall be construed as vesting in the Contractor any right of property in the materials used after they have been attached or affixed to the work or the soil, or after payment has been made for 80 percent of the value of materials delivered to the site of the work, whether or not they have been so attached or affixed. All such materials shall become the property of the City upon being so attached or affixed upon payment of such 80 percent of the value of materials delivered by the Contractor on the ground and not used, as provided in Article 9.06.

7.22 RIGHTS IN LAND AND IMPROVEMENTS – Nothing in these Specifications shall be construed as allowing the Contractor to make any arrangements with any person to permit occupancy or use of any land, structure, or building within the limits of the Contract for any purpose whatsoever, either with or without compensation, in conflict with any agreement between the City and any owner, former owner, or tenant of such land, structure or building.

7.23 TITLE TO MATERIALS FOUND ON THE WORK – The title to all water and to the right to the use of all water, to all soil, stone, gravel, sand, minerals, and all other materials developed or obtained in the excavation or other operations by the Contractor or any subcontractor, or any of their employees, and the right to use or dispose of the same, are hereby expressly reserved in the City and neither the Contractor, nor any subcontractor, nor any of their employees shall have any right, title, or interest in or to any part thereof; neither shall they, nor any of them, assert or make any claim thereto. The Contractor may be permitted to use in the work without charge any such materials which meet the requirements of these Specifications.

7.24 PERSONAL LIABILITY – Neither the members of the City Council, the Director, the Consulting Engineer, nor any other officer or employee of the City shall be personally responsible for any liability arising under the Contract.

7.25 TRESPASS – The Contractor shall be responsible for all damage or injury which may be caused on any property by trespass by the Contractor, any subcontractor or their employees in the course of their employment, whether the said trespass was committed with or without the consent or knowledge of the Contractor.

7.26 SUBCONTRACTING – The Contractor shall comply with Public Contract Code Sections 4100 *et seq*, inclusive, relating to subletting and subcontracting.

No contractor or subcontractor may be listed on a bid or proposal for a public works project unless registered with the DIR pursuant to Labor Code section 1725.5. A contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, or enter into any contract for public work, unless currently registered and qualified to perform public work pursuant to Labor Code section 1725.5. By submitting a bid or proposal to the City, Contractor is certifying that he or she has verified that all subcontractors used on this public work project are registered with the DIR in compliance with Labor Code sections 1771.1 and 1725.5, and Contractor shall provide proof of registration to the City.

Space is provided in the Proposal for listing subcontractors, and their DIR registration information, to be employed on the Project.

In no case shall the use of subcontractors in any way alter the position of the Contractor or his/her sureties with relation to this Contract. When a subcontractor is used, the responsibility for every portion of the work shall still remain with the Contractor.

7.27 PROTECTION OF PUBLIC UTILITIES – In accordance with California Government Code Section 4215, the City assumes the responsibility for the timely removal, relocation or protection of existing main or trunk line utility facilities located on the Work site if such utilities are not identified in the plans and specifications made a part of the invitation for bids. The City will compensate the Contractor for the costs of locating, repairing damage not due to the Contractor's failure to exercise reasonable care, and removing or relocating existing main or trunk line utility facilities located at the Work site and not identified with reasonable accuracy in plans and specifications made a part of the invitation for bids. The City will also compensate the Contractor for the cost of equipment on the Project necessarily idled during such work. The Contractor will not be assessed liquidated damages for Work completion delays caused by the City's failure to provide for removal or relocation of such main or trunk line utility facilities.

Nothing in this provision or the Contract Documents will be deemed to require the City to indicate the presence of existing service laterals or appurtenances whenever the presence of such utilities on the Work site can be inferred from the presence of other visible facilities, such as buildings, meter and junction boxes, on or adjacent to the Work site; provided, however, that nothing in this provision or the Contract Documents shall relieve the City from identifying main or trunk lines in the plans and specifications made a part of the invitation for bids.

Nothing in this provision or the Contract Documents will preclude the City from pursuing any appropriate remedy against the utility for delays which are the responsibility of the utility.

Nothing in this provision or the Contract Documents will be construed to relieve the utility from any obligation as required either by law or by contract to pay the cost of removal or relocation of existing utility facilities.

If the Contractor while performing the Work discovers utility facilities not identified by the City in the plans and specifications made a part of the invitation for bids, the Contractor must immediately notify the City and utility in writing.

Either the City or the utility, whichever owns existing main or trunk line utility facilities located on the Work site, shall have sole discretion to effect repairs or relocation work or to permit the Contractor to perform such repairs or relocation work at a reasonable price

The Contractor will be required to work around public utility facilities that are to remain in place within the construction area or that are to be relocated and relocation operations have not been completed, and (s)he will be held liable to the owners of such facilities for any damage or interference with service resulting from his/her operations.

The exact locations of underground facilities and improvements within the construction area shall be ascertained by the Contractor before using equipment that may damage or interfere with service resulting from his/her operations. It shall be the Contractor's responsibility to notify public utilities that (s)he is working in the vicinity of their facilities.

Other forces may be engaged in moving or reconstructing utility facilities or maintaining service of utility facilities, and the Contractor shall cooperate with such forces and conduct his/her operation in such a manner as to avoid unnecessary delay or hindrance to the work being performed by such other forces.

The Santa Cruz City Municipal Utilities (SCMU) and Soquel Creek Water District (SCWD) owns, operates and maintains its own water distribution systems; the County of Santa Cruz owns, operates

and maintains its own sewer collection systems, and will cooperate with the Contractor insofar as it is reasonable and practicable. Water, as required for City projects, may be obtained at SCMU or SCWD-owned fire hydrants provided that application is made to the SCMU or SCWD and permission obtained with provision for payment.

Full compensation for conforming to the requirements of this article, not otherwise provided for, shall be considered as included in the prices paid for the various contract items of work and no additional allowance will be made therefor.

7.28 PUBLICATIONS – The Contractor shall submit and obtain written approval from the Director prior to the publication of any technical articles, descriptions, or news releases, concerning this project. Approval shall be granted providing that the City is properly acknowledge, technical innovations are properly acknowledged, and such publication is in the best interest of the City.

7.29 LANDS AND RIGHTS-OF-WAY – The City shall provide the lands rights-of-way, and easements upon which the work under this contract is to be done, and such other lands as may be designated on the contract drawings for the use of the Contractor and the Contractor shall confine his/her operations to within these limits.

The Contractor shall provide at his\her own expense any additional land and access thereto that may be required for temporary construction facilities or for storage of materials.

7.30 ASSIGNMENT OF UNFAIR BUSINESS PRACTICE CLAIMS – In accordance with California Public Contract Code Section 7103.5, the Contractor and any subcontractors offer and agree to assign to the City all rights, title, and interest in and to all causes of action the Contractor or any subcontractors 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 this contract. This assignment shall be made and become effective at the time the City tenders final payment to the Contractor, without further acknowledgement by the parties.

7.31 TRENCHING REQUIREMENTS – Pursuant to Labor Code section 6705 and these Specifications, before the excavation of any trench or trenches, five (5) feet or more in depth, where the estimated contract expenditure is twenty-five thousand dollars (\$25,000) or more, the Contractor shall submit a detailed plan showing the design of shoring, bracing, sloping, or other provisions to be made for worker protection from the hazard of caving ground during the excavation of such trench or trenches. If such plan varies from the shoring system standards, established by the Construction Safety Orders, the plan shall be prepared by a registered civil or structural engineer. No excavation shall be started until said plan has been approved by the City Engineer. When the estimated contract expenditure is less than twenty-five thousand dollars (\$25,000) the above-mentioned shoring plan may be required at the discretion of the City Engineer prior to or during the course of construction.

Pursuant to Public Contract Code section 7104, for any project which involves digging trenches or other excavations that extend deeper than four (4) feet:

1. The Contractor shall promptly, and before the following conditions are disturbed, notify the local public entity, in writing, of any:
 - a. Material that the contractor believes may be material that is hazardous waste, as defined in Section 25117 of the Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law;

- b. (2) Subsurface or latent physical conditions at the site differing from those indicated by information about the site made available to bidders prior to the deadline for submitting bids.
 - c. Unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the contract.
 2. The City shall promptly investigate the conditions, and if it finds that the conditions do materially so differ, or do involve hazardous waste, and cause a decrease or increase in the contractor's cost of, or the time required for, performance of any part of the work shall issue a change order under the procedures described in the contract.
 3. In the event that a dispute arises between the City and the Contractor whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in the contractor's cost of, or time required for, performance of any part of the work, the Contractor shall not be excused from any scheduled completion date provided for by the contract, but shall proceed with all work to be performed under the contract. The Contractor shall retain any and all rights provided either by contract or by law which pertain to the resolution of disputes and protests between the parties.

7.32 THIRD PARTY CLAIMS – The City shall timely notify Contractor of the receipt of any third-party claim relating to the Contract, and the City shall be entitled to recover its reasonable costs incurred in providing such notice.

7.33 WATER POLLUTION – Attention is directed to Section 13, “Water Pollution Control” of the State Specifications.

SECTION 8
PROSECUTION AND PROGRESS OF WORK

8.01 ASSIGNMENT - The performance of the Contract may not be assigned except upon the written consent of the City Council. Consent will not be given to any proposed assignment which would relieve the original Contractor or his/her surety of their responsibilities under the Contract.

The Contractor may assign monies due or to become due him\her under the Contract and such assignment will be recognized by the City, if given proper notice thereof, to the extent permitted by law, but any assignment of moneys shall be subject to all proper setoffs in favor of the City and to all deductions provided for in the Contract and particularly all money withheld, whether assigned or not, shall be subject to being used by the City for the completion of the work in the event that the Contractor should be in default therein.

8.02 COMMENCEMENT OF WORK – The Contractor shall not begin work until s\he has received a Notice to Proceed from the City, and shall upon receiving notice, begin work within the time specified in the notice. After receipt of said notice, the Contractor shall provide written notice to the Director of the Contractor’s intention to start work, specifying the date on which s\he intends to start at least 24 hours in advance.

8.03 WORK IN PROGRESS SCHEDULE – Unless not required by the Special Provisions, the Contractor or the bidder to whom the Contract is awarded shall, prior to beginning work, submit to the Director a practicable work schedule in the form required by the Special Provisions showing the order and dates within which the Contractor proposes to carry out the work.

8.04 TEMPORARY SUSPENSION OF WORK – The Director shall have the authority to suspend the work wholly, or in part, for such period as (s)he may deem necessary when work is being performed in unsuitable weather, or when any other conditions are considered unfavorable for the proper prosecution of the work. The Director shall also have authority to suspend the work wholly or in part because of failure on the part of the Contractor to carry out orders given or to perform any provisions of the Contract. The Contractor shall immediately comply with the written order of the Director to suspend the work wholly or in part. Work suspended wholly or in part shall be resumed by the Contractor on written order of the Director when conditions are favorable and methods corrected.

8.05 TEMPORARY SUSPENSION OF WORK FOR THE CONVENIENCE AND BENEFIT OF THE CITY – The Director may order the Contractor, in writing, to temporarily suspend all or any part of the work for such period of time as may be determined by the Director to be necessary or desirable for the convenience and benefit of the City. Where such suspension has been ordered in writing as above provided and where such suspension unreasonably delays the progress of the work, the Director and/or City Council may make an equitable adjustment in the contract price and contract time.

8.06 SUSPENSION OF WORK BECAUSE OF CONDITIONS BEYOND CONTROL OF CITY OR CONTRACTOR – Should the work of this contract be suspended for a period of over one (1) year due to war conditions, labor conditions, legal actions, or for any other reason beyond the control of either the City or the Contractor, the work may be terminated by mutual agreement subject to the following conditions. The City shall be responsible for payment for the actual work accomplished only, based on

bid prices. The pro-rated cost of such work, where not fully covered by unit costs or bid items, shall be determined by the City's evaluation of the work done and the bid costs.

8.07 TERMINATION OF UNSATISFACTORY SUBCONTRACTS – When any portion of the work which has been subcontracted by the Contractor is not being prosecuted in a satisfactory manner, the subcontract for such work shall be terminated immediately by the Contractor upon written notice from the Director, and the subcontractor shall not again be employed on the type of work in which his/her performance was unsatisfactory.

8.08 CHARACTER OF WORKERS – If any subcontractor or person employed by the Contractor or subcontractor shall fail or refuse to carry out the directions of the Director or shall appear to the Director to be incompetent or to act in a disorderly or improper manner, (s)he shall be removed from the work immediately on the request of the Director, and such persons shall not again be employed on the work.

8.09 TIME OF COMPLETION AND LIQUIDATED DAMAGES – The Contractor shall complete all the work under the Contract within the number of days set forth in the Special Provisions or the Proposal form. When a delay occurs due to unforeseen causes beyond the control and without the fault or negligence of the Contractor, including, but not restricted to, acts of nature, acts of the public enemy, governmental acts, fires, floods, epidemics, strikes (except as caused by improper acts or omissions of the Contractor), the time of completion shall be extended for a period justified by the effect of such delay on the completion of the work. A delay of a subcontractor or supplier due to the above circumstances will be taken into consideration for extensions of time of completion.

Acts of nature means an earthquake, flood, cloudburst, cyclone, or other cataclysmic phenomena of nature beyond the power of the Contractor to foresee or to make preparation in defense against, but does not include ordinary precipitation. The number of days provided for the work as set forth in the Special Provisions includes a normal amount of days for downtime due to weather according to the time of year in which the Contract will be operational.

Should any of the unforeseen circumstances as described in the preceding portion of this Article occur, the Contractor shall file written notice with the Director within the 10 days of the beginning of such delay. The notification shall be accompanied by documentary evidence to the fact and effect of the circumstances. Circumstances of which no notification has been given within 10 days of their occurrence shall not afterward be claimed as grounds for extension of time of completion. The Director will determine the facts in the matter and his/her findings shall be final and conclusive.

If the Contract is revised by a Contract Change Order and the Director determines that such revision will cause delay in completion of the work, the Change Order will provide for extension of the time of completion.

It is agreed by the parties to the Contract that in case all the work called for under the Contract in all parts and requirements is not finished or completed within the number of days as set forth in the Special Provisions, damage will be sustained by the City, and that it is and will be impracticable and extremely difficult to ascertain and determine the actual damage which the City will sustain in the event of a reason of such delay; and it is therefore agreed that the Contractor will pay to the City the sum set forth in the Special Provisions per day for each and every day's delay in finishing the work in excess of the number of days prescribed; and the Contractor agrees to pay said liquidated damages herein provided for, and further agrees that the City may deduct the amount thereof from any monies due or that may become due to the Contractor under the Contract.

8.10 TERMINATION OF CONTRACT – If the Contractor should fail to supply sufficient workers, material, supplies, and equipment, the City shall give written notice to the Contractor, which notice shall require that the Contractor supply sufficient workers, supplies, materials, and equipment to diligently prosecute the project. If the Contractor fails to resume diligent prosecution of the work within 48 hours after such notice is delivered, the City may eject the Contractor from the job, take over all supplies, equipment and material of the Contractor on the job site, and may either obtain another Contractor to finish the project or the City may finish the project with its own forces. In such event, the Contractor shall be liable to the City for damages including but not limited to the full cost of completing the project.

8.11 RIGHT-OF-WAY DELAYS – If performance of the Contractor’s work is delayed as the result of the failure of the City to acquire or provide rights-of-way, an extension of time will be granted pursuant to provisions of Article 8.09.

8.12 CONTRACTOR’S COST DATA – The City, or any of its duly authorized representatives shall, until the expiration of three years after final payment under this Contract or any subcontractor under it, have access to and the right to examine any of the Contractor’s or subcontractor’s payrolls, records of personnel, invoices of materials, records of plant and equipment costs, and any and all other directly pertinent books, documents, papers, and records of such Contractor or subcontractor, involving transactions related to said Contract or subcontracts. In the event State or Federal funds are involved in the financing of the project, the State or Federal Government shall have the same rights of inspection as the City.

8.13 COORDINATION WITH UTILITIES – The Contractor shall be required to coordinate the work with the removal or relocation of any utility facility by any utility company or public agency where the utility facility is shown on the plans or specified in the Special Provisions to be removed or relocated by such company or agency. It shall be the Contractor’s sole responsibility to effect said coordination, and it shall be deemed, upon his/her submission of a Proposal and Schedule to do Work, that the Contractor has reviewed his/her working plans with, and coordinated any utility facility removal or relocation with, all appropriate utility companies and public agencies.

In general, the location of existing utility facilities as shown on the drawings are approximate. This information has been obtained from utility maps furnished by the various agencies involved, and the City does not guarantee either the correctness of locations or the extent of such location. Minor lines such as house water, gas and sewer facilities are not shown. It shall be the responsibility of the Contractor to ascertain the exact location of the utility facilities, and no additional compensation may be claimed for additional work involved because the actual location is different than that shown on the plans.

Unless otherwise indicated on the Drawings or specified in the Special Provisions, the Contractor shall maintain in service all drainage, water, gas, and sewer lines, including house services, power, lighting and telephone conduits, and any other surface or subsurface structure of facility of any nature that may be affected by the work; provided, however, that the Contractor for his/her convenience may arrange with the owner to temporarily disconnect house service lines or other facilities along the line of the work. The cost of disconnecting and restoring such utilities shall be borne by the Contractor.

The Contractor is responsible for the protection of and for any damage to any utility facility encountered on the project during the prosecution of the work. Any such damage to a utility facility shall be repaired to the satisfaction of the utility owning the same. The City reserves the right, if so

requested by the owner, to permit the owner to repair such damage. All expenses of whatever nature arising from such damage shall be borne by the Contractor.

8.14 RESPONSIBILITY FOR ACCURACY – The Contractor shall obtain all necessary measurements for and from the Work, and shall check dimensions, elevations, and grades for all layout and construction work and shall supervise such work, for the accuracy of all of which s\he shall be responsible. Each subcontractor shall adjust, correct, and coordinate his/her work with the work of others so that no discrepancies will result in the whole work. Unless authorized by the Director, any work done without liens, levels, or grades established by the Director shall be done at the Contractor's risk.

8.15 TEMPORARY FACILITIES AND SERVICES - The Contractor shall be responsible for providing and maintaining the necessary storage places, field office, temporary roads, fences, guards, etc., and required utilities, such as telephone, electric, and water service, at his/her expense. No water shall be withdrawn from fire hydrants for construction purposes until the Contractor has approval of the owner for such a connection.

8.16 UNFAVORABLE WEATHER AND OTHER CONDITIONS - During unfavorable weather and other conditions, the Contractor shall pursue only such portion of the work as will not be damaged thereby. No portions of the work of which the satisfactory quality or efficiency will be affected by any unfavorable conditions shall be constructed while these conditions remain, unless the Contractor employs special means or precautions, approved by the Director to overcome them.

8.17 CONSTRUCTION HOURS – Construction hours shall be limited between the hours of 8:00 a.m. and 5:00 p.m. on weekdays. Construction shall be prohibited on weekends or legal holidays except in case of an emergency work approved by the Director.

It is understood, however, that two or three shift operations may be established as a regular procedure by the Contractor if (s)he first obtains written permission from the Director. Such permission may be revoked by the Director at any time if the Contractor fails to maintain adequate force and equipment for reasonable prosecution and to justify inspection of the work or fails to provide sufficient artificial light to permit the work to be carried on properly and to permit proper inspection.

The Contractor shall give the Director 24 hours prior notice of any work to be done on weekends with the location and type of work to be done specified; and any work done without such notice and without the supervision of an inspector may be ordered removed and replaced at the Contractor's expense.

SECTION 9
MEASUREMENT AND PAYMENT

9.01 WORK TO BE DONE WITHOUT DIRECT PAYMENT – Whenever it is specified that the Contractor is to do work or furnish materials of any class for which no price is fixed in the proposal, it shall be understood that s\he is to do such work or furnish such materials without extra charge or allowance or direct payment of any kind. The cost of doing such work or furnishing such materials is to be included in the price bid for such other items of work as s\he may consider appropriate, unless it is expressly specified in the Special Provisions that such work or materials is to be paid for as extra work.

9.02 MEASUREMENT OF QUANTITIES – Payment for all work bid at a price per unit of measurement will be based upon the actual quantities of work as measured upon completion. The City does not expressly or by implication agree that the actual amount of work or materials of any class will correspond to the estimated quantities given in the proposal. The Contractor shall make no claim for anticipated profits, for loss of profit, for damages, or for any extra payment whatever because of any difference between the amount of work actually done or materials furnished and the estimated amount.

Items bid on a "Lump Sum" or "Job" basis shall result in a complete structure, operating plant or system in satisfactory working condition with respect to the functional purposes of the installation, and no extra compensation will be allowed for anything omitted but fairly implied.

9.03 REMOVED.

9.04 FORCE ACCOUNT WORK

9.04.01 General – Where extra work is to be paid for on a force account basis, the extra work will be paid for at the actual necessary cost as determined by the Director, plus an allowance for superintendence, general expense, and profit. Such an allowance will be made in accordance with the following schedule:

<u>Actual Necessary Cost</u>	<u>Allowance</u>
Labor	20 Percent
Materials	15 Percent
Equipment	15 Percent

The actual necessary cost for labor, material or equipment will be computed in accordance with Articles 9.04.02, 9.04.03, and 9.04.04, respectively. Office expense, general superintendence, and other general expense will not be included in the computation of actual necessary costs.

It is understood that labor, materials, and equipment may be furnished by the Contractor or by the subcontractor or by others on behalf of the Contractor.

When extra work paid for on a force account basis is performed by forces other than the Contractor’s organization, the Contractor shall reach agreement with such other forces as to the distribution of the payment made by the City for such work and no additional payment therefor will be made by the City.

The Contractor shall furnish the Director daily report sheets covering the direct costs of labor and materials and charges for equipment, whether furnished by the Contractor, subcontractor, or other

forces and said report sheets shall be signed by the Contractor or his\her authorized agent. The daily report sheets shall provide names or identifications and classifications of workers, and hours worked; size, type and identification number of equipment, and hours operated. Material charges shall be substantiated by valid copies of vendor's invoices.

The Director will make any necessary adjustments and compile the costs of force account work on daily extra work report forms furnished by the City. When these reports are agreed upon and signed by both parties they shall become the basis of payment for the work performed, but shall not preclude subsequent adjustment based on a later audit.

9.04.02 Labor – The cost of labor used in performing the work by the Contractor, a subcontractor, or other forces will be the sum of the following:

- a. The actual wage paid which shall include any employer payments to, or on behalf of, workers for fringe benefits including health and welfare, pension, vacation, and similar purposes.
- b. To the actual wages, as defined in Article 9.04.02(a), will be provided a percentage set forth in the Special Provision, which percentage shall constitute full compensation for all payment imposed by State and Federal laws including, but not limited to, compensation insurance, and social security payments.
- c. The amount paid for subsistence and travel required by collective bargaining agreements.

At the beginning of the Contract and as later requested by the Director, the Contractor shall furnish the Director three copies of a certificate from the insurance company showing labor compensation rates.

9.04.03 Materials – The cost of materials used in performing the work will be the cost to the purchaser, whether Contractor, subcontractor, or other forces, from the supplier thereof, except as the following are applicable:

- a. Cash or trade discounts available to the purchaser shall be credited to the City notwithstanding the fact that discounts may not have been taken.
- b. In materials secured by other than a direct purchase and direct billing to the purchase, the cost shall be deemed to be the price paid to the actual supplier as determined by the Engineer. Markup except for actual costs incurred in the handling of such materials will not be allowed.
- c. Payment for materials from sources owned wholly or in part by the purchaser for similar materials from said sources on Contract items or the current wholesale price for such materials delivered to the job site, whichever price is lower.
- d. If, in the opinion of the Director, the cost of materials is excessive, or the Contractor does not furnish satisfactory evidence of the cost of such materials, then the cost shall be deemed to be the lowest current wholesale price for the quantity concerned delivered to the job site less cash or trade discounts.

The City reserves the right to furnish materials for the work and no claim shall be made by the Contractor for costs and profit on such materials.

9.04.04 Equipment – The allowance made for such equipment used on force account work shall be determined from the latest schedule of equipment rental rates in use at the date hereof by the California State Transportation Department and incorporate herein by reference the same as though set out in full. Equipment shall be in good operating condition when starting work covered by the order. Rental time will not be allowed while equipment is inoperative due to breakdowns. Allowance for equipment ownership expense for use of items of equipment not listed with the Board shall be established in conformance with the items listed.

When extra work is ordered, the Contractor shall furnish a complete description of each item of equipment to be used on such extra work, listing the make, model, size, capacity, mounting, type of power and cost.

Allowance determined in accordance with this Article include all costs of operating equipment such as servicing labor and equipment, labor and parts for minor field repairs, fuel, oil, grease, and supplies, but not operating crew labor. No additional payment or allowance will be made in extra work orders for these items other than operating labor in addition to the amounts allowed for equipment use.

When equipment is obtained for the extra work from beyond the limits of the Contract, in addition to the rental rates paid while the equipment is actually in use on the work, the City will pay the cost of loading, unloading, and transporting to and from work subject to the following conditions:

- a. The point from which the equipment is to be transported shall be agreed to by the Director in advance.
- b. Transportation on low bed trailers shall not exceed rates of established haulers or applicable minimum rates of the Public Utilities Commission.
- c. Saturdays, Sundays, and Holidays will not be paid for unless directed by the Director.
- d. The City will pay an amount not to exceed the charge for moving the equipment to the work if the equipment is returned to a location other than from which it was obtained.
- e. Payment for transportation, loading, and unloading will not be made if the equipment is used on the work under the Contract in any other way than upon extra work paid for on a force account

9.05 RETENTION – In accordance with the Contract Documents and applicable law, the City may retain out of any payment due the Contractor up to 5% of the payment. In no event shall the City's total retention proceeds exceed 5% of the contract price.

Under no circumstances shall any provision of this section be construed to limit the ability of the City to withhold 150 percent of the value of any disputed amount of work from the final payment, as provided for Public Contract Code section 7107(c). In the event of a good faith dispute, nothing in this section shall be construed to require a public entity to pay for work that is not approved or accepted in accordance with the proper plans or specifications.

9.05.01 SECURITIES IN LIEU OF RETENTION – In accordance with Public Contract Code Section 22300, except where federal regulations or polices do not permit substitution of securities, the Contractor may substitute securities for any moneys withheld by the City to ensure performance of the Work. At the Contractor's request and expense, securities equivalent to the amount withheld will be deposited with the City, or with a state or federally chartered bank in California as the escrow agent, who will then pay those moneys to the Contractor under the terms of an Escrow for Security Deposit

agreement. The Escrow for Security Deposit agreement is provided in the Contract Documents. Upon satisfactory completion of the Work, the securities will be returned to the Contractor.

Alternatively, at the Contractor's request and expense, the City will pay retentions earned directly to the escrow agent. At the Contractor's expense, the Contractor may direct investment of the payments into securities. Upon satisfactory completion of the Work, the Contractor will receive from the escrow agent all securities, interest, and payments received by the escrow agent from the City pursuant to this provision and the terms of the Escrow for Security Deposit agreement. The Contractor will, within 20 days of receipt of payment, pay to each subcontractor the respective amount of interest earned, less costs of retention withheld from each Subcontractor, on monies withheld to ensure the Contractor's performance of the Work.

Securities eligible for investment in accordance with this provision include those listed in Government Code Section 16430, bank or savings and loan certificates of deposit, interest bearing demand deposit accounts, standby letters of credit, or any other security mutually agreed to by the Contractor and the City.

The Contractor will be the beneficial owner of any securities substituted for moneys withheld and will receive any interest thereon.

9.06 PARTIAL PAYMENT – At monthly intervals, as fixed by the City, the Contractor will prepare an estimate in writing of the total amount of work done and the acceptable materials furnished and delivered by the Contractor on the ground and not used, to the time of such estimate, and the value thereof. Acceptable materials shall be those materials which will become a part of the finished construction work. The basis for partial payments of lump sum or other unit Contract items will be determined by agreement between the Director and the Contractor. No such estimate of payment shall be required to be made when, in the judgment of the Director the work is not proceeding in accordance with the provisions of the Contract, or when in his/her judgment the total value of the work done since the last estimate amounts to less than \$500. No such estimate or payment shall be considered to be an acceptance of any defective work or improper materials. All progress estimates and payments shall be subject to correction in the final estimate.

9.07 FINAL ESTIMATE AND PAYMENT – As soon as practicable after completion of the work, the Director will prepare in writing and furnish to the Contractor the final estimate of the quantities of work done and all payments due under the Contract, which estimate will show deductions for prior payments and any other amounts to be retained. The amount determined due, less the amount retained, will be paid. This retained amount will not be due or payable until 35 days after the completion of the work and the filing of Notice of Completion and Acceptance in the manner provided by law and until after the Contractor has furnished the City a release by all claims by the Contractor against the City arising by virtue of the Contract except such claims in definite amounts as the Contractor may specifically exempt from the operation of the release.

At the earliest practicable time after having filed a claim, either during the performance of the work or after its completion as specified in the foregoing paragraph, it shall be the responsibility of the Contractor to submit in writing the basis for each claim, reference to the applicable provisions of the Specifications, the method of computation of the amount claimed due, and all other factual data pertaining thereto. Failure to submit such information and details within the 90 days after filing said claims will be sufficient cause for denying the claims. No claim will be considered where there has been a failure to comply with the requirements of Article 4.04.

9.08 SCOPE OF PAYMENT - Payment for all items of work at the unit or lump sum price shall be considered as full compensation for furnishing all labor, materials, tools, equipment, and incidentals necessary to complete the items of work, and no additional allowance will be made therefor.

9.09 GUARANTEE - Should any failure of the work occur within a period of one year after acceptance of the project by the City, which can be attributed to faulty materials, poor work, or defective equipment, or should discovery be made within this period of any non-compliance with the Plans and Specifications, the Contractor shall promptly make the needed repairs, replacement, or installation at his/her expense.

The City is hereby authorized to make such repairs if the Contractor fails to make or undertake with due diligence the aforesaid repairs within ten days after s\he is given written notice of such failure; provided, however, that in case of emergency where, in the opinion of the Director, delay would cause serious loss or damages, or a serious hazard to the public, the repairs may be made, or lights, signs, and barricades erected without prior notice to the Contractor, and the Contractor shall pay the entire costs thereof.

Unless otherwise set forth in the Special Provisions, as a condition precedent to the acceptance of the Contract, the Contractor shall furnish a corporate surety bond, of an acceptable surety company authorized to do business in the State of California, to protect the City against the results of such faulty materials, poor work, or defective equipment and to guarantee the Contractor's responsibility as outlined above, for period of one year after completion and acceptance of the project by the City. Said bond shall be a sum not less than ten (10%) of the Contract amount.

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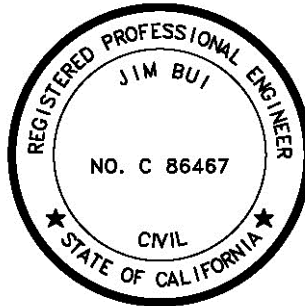
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RECONSTRUCT STORM DAMAGED BIKE PATH AND SHOULDER ON PARK AVENUE

Part 3 Technical Provisions contained herein have been prepared by or under the direction of the following Registered Persons. Sections 10.09 through 10.12 were prepared by or under the direction of Paul J. Sorci, all other Sections of these Technical Provisions were prepared by or under the direction of Jim Bui.



Jim Bui
Registered Civil Engineer, No. C86467
NCE

3/24/2020
Date



Paul J. Sorci
Registered Geotechnical Engineer, No. GE3132
Cal Engineering and Geology

3/24/2020
Date

GENERAL

The work to be done under this contract, except as modified or supplemented herein, shall conform to the following:

- The City of Capitola Standard Plans and Construction Standards.
- The State of California Department of Transportation (Caltrans) 2018 Standard Specifications, latest edition, and as periodically updated in the form of “Revised Standard Specifications,” herein referred to as the “State Standard Specifications”.
- The State of California Department of Transportation (Caltrans) 2018 Standard Plans, latest edition, herein referred to as the “State Standard Plans”.
- The California Manual on Uniform Traffic Control Devices (California MUTCD), latest edition, herein referred to as the “CA MUTCD”

These Technical Specifications are additions, modifications, or clarifications to the State Standard Specifications.

Refer to Standard Specifications of the City of Capitola, Public Works Department, Plans and Specifications for the order of precedence of contract documents.

SECTION 10.01: MOBILIZATION AND DEMOBILIZATION (Bid Item No. 1 and 2)

PART 1 - GENERAL

1.1 DESCRIPTION

- A. The provisions of Section 9-1.16.D, “Mobilization,” of the State Standard Specifications shall apply in their entirety except as modified or supplemented herein.
- B. This section includes reference to increase or decrease in bonding and staging area.

1.2 RAILROAD RIGHT OF ENTRY

- A. Contract work will require the Contractor to enter the Santa Cruz Branch Rail Line right of way, which is not owned or operated by the City of Capitola. The railroad line is currently deemed inactive, but may become operational before construction occurs.
- B. The Santa Cruz Branch Rail line has both a railroad **Property Owner** and a **Railroad Operator**. The current Property Owner is the **Santa Cruz County Regional Transportation Commission** and the current Railroad Operator is **Progressive Rail Inc.** of Minnesota.
- C. It shall be the Contractor’s responsibility to obtain and possess a valid right of entry (ROE) to perform the contract work from the railroad Property Owner. A separate valid ROE may be required from the Railroad Operator only if the railroad line is operational at the time of construction. The Contractor shall be responsible for making all necessary arrangements and payments to secure the required ROE including, but not limited to purchasing project-specific insurance naming the railroad Property Owner and Railroad Operator as additional insured.

PART 2 - PRODUCTS

2.1 TEMPORARY CONSTRUCTION FENCING

- A. Posts shall:
 - 1. Be made of steel
 - 2. Have a “U,” “T,” “L,” or other cross-sectional shape that can resist failure from lateral loads.
 - 3. Be pointed on the end to be driven into the ground.
 - 4. Weigh at least 0.75-pound per foot.
 - 5. Be at least 5 feet long
 - 6. Have a safety cap attached to the exposed end. The safety cap must be yellow, orange or red plastic and fit snugly to the metal post.
 - 7. Fasteners must be tie wires or locking plastic fasteners.
- B. High Visibility Fabric
 - 1. Must consist of one of the following:
 - a. Polyethylene
 - b. Polypropylene
 - c. Combined polyethylene and polypropylene
 - 2. Sample under ASTM D4354, Procedure C.
 - 3. Test under ASTM D4759. All properties must be based on Minimum Average Roll Value.
 - 4. Identify, store, and handle under ASTM D4873.
 - 5. Must contain ultraviolet inhibitors and comply with the following:

Property	Specifications	Requirements
Width, inches, Min	Measured	48
Opening size inches	Measured	1" x 1" (Min) 2" x 2" (Max)
Color	Observed	Orange
Grab breaking load 1-inch grip, lb, Min. in each direction	ASTM D4632	260
Apparent elongation percent, Min., in each direction	ASTM D4632	5
Ultraviolet Degradation percent of original unexposed grab breaking load 500 hr, minimum	ASTM D4355	70

PART 3 - EXECUTION

3.1 INCREASE OR DECREASE IN BONDING

- A. When the final contract price for which the Contractor has bonded for a project increases by over twenty-five percent (25%) of the original base bid price due to change orders and/or increases in the quantities of items incorporated into the project, the Contractor shall be entitled to payment for additional bonding costs that have been paid to the surety company due to this increase. Payment for this cost shall be made via change order and included on the final project billing statement with supporting documentation from Contractor.
- B. When the final contract price decreases by over twenty-five percent (25%) of the original base bid price due to change orders and/or a decrease in the quantities of items incorporated into the project, the City shall be entitled to a reimbursement of the decrease in bonding costs paid by the Contractor. The refund of these costs shall be made via change order and deducted from the final payment for release of retention.

3.2 STAGING AREA

- A. It is the responsibility of the Contractor to locate a staging area for office setup, construction laydown areas, or the like, and is an appropriate area for mixing and storing materials and equipment. The staging area may be located inside or outside City Limits. Temporary utility controls shall be arranged solely by the Contractor. It is the Contractor's responsibility to inspect the site to determine its suitability for operations to execute this contract. Contractor is required to obtain and show proof of all permits required by the State and/or local agencies for use of the staging area.
- B. The City is not responsible for providing said staging area. However, the City will assist the Contractor in identifying City property available for staging area.
- C. It is the Contractor's responsibility to secure a staging area for contract work, and any associated costs are considered to be included in the various contract prices paid, with no additional compensation allowed therefor. However, if the Contractor only uses City property for staging area, no additional costs associated with securing a staging area shall be covered by the City. Contractor is not required to obtain permits for use of City property for staging area.

- D. The Contractor’s proposed staging site(s) shall be approved by the Engineer. If Contractor utilizes private property for staging area, Contractor shall submit proof of an agreement for use of said staging area with private property owner(s) prior to mobilization.
- E. The staging area(s) shall be maintained throughout the duration of the project such that it is not construed as visual blight in the opinion of the Inspector. All adjoining streets, sidewalks and gutters shall be swept free of construction materials tracked onto them at the end of each day. Failure to do so will result in City forces cleaning the area at the Contractor’s expense. The City of Capitola labor rate to be used shall be \$150 per hour per person.
- F. Sanitary restroom facilities shall be provided and maintained by the Contractor. The Contractor’s proposed locations for restroom facilities shall be reviewed with the Inspector prior to delivery of the restroom facility. If the Contractor and/or subcontractors are working at multiple sites simultaneously, then a restroom facility will be required at each site. Failure to provide sanitary restroom facilities is grounds for suspension of work. Contractor shall note that the count of working days will continue.

3.3 STAGING AREA ADJACENT TO RAILROAD

- A. At all times the existing railroad structure and existing railroad drainage ditch shall be protected by the contractor from ongoing construction operations and equipment. Any damage to the existing railroad structure or existing railroad drainage ditch shall be paid at the contractor’s sole expense.
- B. As shown on the contract plans there is the potential for an optional five (5) foot staging area adjacent and parallel to the existing railroad structure.
- C. Prior to using the optional staging area adjacent to railroad structure, the contractor shall install temporary construction fencing along the outside perimeter of the optional railroad staging area on the side nearest the railroad structure. Temporary fencing shall be maintained by the contractor in working order for the duration of optional construction staging adjacent to the existing railroad structure.
- D. If the optional railroad staging area is not used or no longer used for construction staging, then the contractor shall install temporary construction fencing at the toe of the repaired slope. Temporary fencing shall be maintained by the contractor in working order for the duration of construction operations occurring within twenty (20) feet of the nearest rail.

3.4 RAILROAD RIGHT OF ENTRY

- A. Railroad Property Owner
 - 1. The Contractor shall contact the railroad Property Owner and make all necessary arrangements and payments to secure a valid right of entry (ROE) for the duration of construction operations occurring within the Santa Cruz Branch Rail Line right of way.
 - 2. The Contractor will be required to possess project-specific insurance naming the Property Owner as additional insured per the terms of the ROE. Highlighted below are a summary of anticipated minimum insurance requirements. If there are discrepancies between the minimum insurance requirements listed below and the terms of the ROE, then the terms of the ROE shall govern.
 - a. Worker’s Compensation in the minimum statutorily required coverage amounts.
 - b. Automobile Liability Insurance for each Contractor’s vehicle in the minimum amount of one million dollars (\$1,000,000).

- c. Comprehensive or Commercial General Liability insurance coverage in the minimum amount of five million dollars (\$5,000,000) for each occurrence or claim and an aggregate of at least ten million dollars (\$10,000,000).
3. Questions regarding current ROE requirements including insurance requirements from the railroad Property Owner may be directed to:

Sarah Christensen, P.E.

Santa Cruz County Regional Transportation Commission
1523 Pacific Avenue, Santa Cruz, CA 95060
Direct 831.460.3204 | Mobile 831.247.4887 | E-mail: schristensen@scrtc.org

4. The City of Capitola at its discretion may secure a valid right of entry from the Property Owner that may fulfill the Contractor's obligations of securing a separate right of entry with the railroad Property Owner, excepting insurance requirements.

B. Railroad Operator

1. The Contractor shall notify the Railroad Operator of any scheduled mobilization/demobilization from the site and all construction operations.
2. Only if the railroad has been made operational and is active, the Contractor shall make all necessary arrangements and payments to secure a valid right of entry (ROE) from the Railroad Operator for the duration of construction operations occurring within the Santa Cruz Branch Rail Line right of way.
3. Irrespective of whether a valid ROE is required, the Contractor shall be required to possess project-specific insurance naming the Railroad Operator as additional insured with:
 - a. Liability Insurance coverage in the minimum amount of two million dollars (\$2,000,000). The general liability policy should include the CG2417 or equivalent "Contractual Liability – Railroads".
4. Questions regarding current ROE requirements including insurance requirements from the Railroad Operator may be directed to:

Jeannie McGovern, Contracts Manager

Progressive Rail, Inc.
21778 Highview Avenue, Lakeville, MN 55044
Cell: 612.271.2592 | E-mail: JMcGovern@progressiverail.com

PART 4 - MEASUREMENT AND PAYMENT

Payment for Mobilization and Demobilization, including all incidental work shall be made on a LUMP SUM basis as follows:

- A. When 5 percent (5%) of the original contract amount is earned, 50 percent (50%) of the amount bid for mobilization and demobilization, or 5 percent (5%) of the original contract amount, whichever is lesser, may be paid.
- B. When 10 percent (10%) of the original contract amount is earned, 75 percent (75%) of the amount bid for mobilization and demobilization or 7.5 percent (7.5%) of the original contract amount, whichever is lesser, may be paid.
- C. When 20 percent (20%) of the original contract amount is earned, 95 percent of the amount bid for mobilization and demobilization, or 9.5 percent (9.5%) of the original contract amount, whichever is lesser, may be paid.

- D. When 50 percent (50%) of the original contract amount is earned, 100 percent (100%) of the amount bid for mobilization and demobilization, or 10 percent (10%) of the original contract amount, whichever is lesser, may be paid.
- E. Upon completion of all work on the project, payment of any amount bid for mobilization and demobilization in excess of 10 percent (10%) of the original contract amount will be paid.

Temporary Construction Fencing (4' Height) shall be measured by the LINEAR FOOT as determined by field measuring the length. Full compensation for all labor, materials, tools, and equipment required for fulfilling the requirements of this section shall be considered as included in the contract price paid per linear foot Temporary Construction Fencing (4' Height) and no additional compensation shall be made therefor.

* * *

SECTION 10.02: CONSTRUCTION STAKING (Bid Item No. 3)

PART 1 - GENERAL

1.1 DESCRIPTION

- A. Contractor shall obtain the services of a Professional Land Surveyor licensed in the State of California to perform construction layout, staking and quantity calculations for payment purposes.
- B. Contractor shall provide all labor, equipment, materials, tools and incidentals for performing all construction staking operations including:
 - 1. Construction survey and layout
 - 2. Set Control points and lines at the work site
 - 3. Provide and establish construction staking for all improvement work shown on the drawings or as required during the course of construction
- C. The drawings as needed for layout may also be provided in an electronic format (AutoCAD version 2018) as a courtesy to the layout surveyor. The Engineer will not be responsible for any modifications to the electronic files by others or for any errors or omissions found within the files. The delivery of the electronic files does not constitute the official contract drawings. In the event of any questions or discrepancies between the electronic files and the approved drawings, the paper drawings will prevail.

PART 2 - PRODUCTS (NOT USED)

PART 3 - EXECUTION

3.1 General

- A. The Land Surveyor shall be responsible for the correct determination of all lines, grades, distances and elevations.
- B. All products and services provided by the Contractor's surveyor shall be done in conformance with the Professional Land Surveyors Act, Sections 8700 to 8805, Business and Professions Code, State of California.
- C. Contractor shall be responsible for layout of all improvements. The Engineer may make minor adjustments to alignment to suit actual field conditions at no extra cost.
- D. The Contractor's surveyor shall re-establish all existing control points damaged or removed during construction outside the existing work area including filing of any required corner record maps with Santa Cruz County at no additional cost to the City of Capitola.
- E. The Engineer reserves the right to perform quality control surveys to ensure conformance with contract specifications as deemed necessary or appropriate by the Engineer. Contractor shall render whatever assistance necessary to allow access by the Engineer at no additional costs.
- F. The Contractor shall be responsible for protecting and perpetuating existing and any new permanent survey monuments affected by construction activities in accordance with Business and Professions Code Section 8771. The Contractor shall be responsible for referring, resetting, and filing of corner records for all survey monuments disturbed or

destroyed by construction activities in accordance with Business and Professions Code Section 8771.

PART 4 - MEASUREMENT AND PAYMENT

- A. The Contract LUMP SUM price for the item “Construction Staking” shall include full compensation for furnishing all labor, material, tools, equipment, and incidentals and for doing all work associated with this item as shown on the Plans, as specified in the Standard Specifications and these Special Provisions, and as directed by the Engineer.

* * *

SECTION 10.03: PUBLIC POSTING AND NOTIFICATION (No Bid Item)

PART 1 - GENERAL

1.2 DESCRIPTION

Work Includes

1. Advance notice door hangers shall be distributed to residents and businesses on all streets where work within this Contract is included.
2. **"NO PARKING TOW AWAY"** signs shall be posted on the street or parking lot in which the work is to be performed in accordance to the directions in this Section.

PART 2 - PRODUCTS

2.1 ADVANCE NOTICE DOOR HANGERS OR NOTICES

Advance notice door hangers or notices shall be provided by the Contractor after approval of the City.

2.2 NO PARKING SIGNS

"NO PARKING TOW AWAY" signs shall be provided by the Contractor.

PART 3 - EXECUTION

3.1 DISTRIBUTION

- A. Advance notice door hangers or notices shall be hand delivered by the Contractor to businesses, residents, or others that will be impacted by the work, 14 days in advance of construction and/or street closure.
- B. Dated **"NO PARKING TOW AWAY"** signs shall be posted a minimum of 72- hours in advance of all work which requires that cars not be parked on the street. Date and time of work shall be written on these signs in 2" high letters with a 1/4" felt marker. These signs shall be placed on barricades per these specifications or located near the curb and gutter where they are visible to motorists. All signs must be removed immediately after the specific work has been completed. Any cars which remain parked on the street in violation of the posted **"NO PARKING TOW AWAY"** sign shall be towed away under the direction of the Sheriff's Office.
- C. The Contractor shall call the Sheriff's Office Communications Dispatch Center prior to the start of work each day, to report all street closures for that day. For street closure notifications, also see Section 10.04 "Traffic Control" Section 3.5.
- D. Sign Posting
 1. No Parking Signs
 - a. All signs indicating a **"NO PARKING TOW AWAY"** zone shall be posted a minimum of 72-hours in advance.
 - b. Signs shall be properly filled out including dated time of posting, and initialed by the Contractor.
 - c. Signs shall be posted on both sides of the barricade.

- d. Signs shall be placed on both ends of the **"NO PARKING"** zone.
 - e. All signs indicating a **"NO PARKING"** zone, shall be removed the same day that the work requiring **"NO PARKING"** zone is completed.
 - f. The **"NO PARKING TOW AWAY"** signs (see above) shall be provided by the Contractor and shall be ordered immediately after the Notice to Proceed is issued.
 - g. The Inspector and the Capitola City's Public Works Department and Sheriff's Office shall be notified of the **"NO PARKING TOW AWAY"** zone, before the 72-hour period, for their approval.
2. Use of Barricades
- a. Shall be Type III barricades, with properly working and maintained flashing lights.
 - b. Shall be placed at intervals of no greater than 50 feet.
 - c. Shall be placed in the street or in the parkway as close to the street as possible where it is easily visible.
 - d. Shall be removed from the street the same day the work is completed.
3. Certification of Posting
- a. After the **"NO PARKING"** zone is established, the Contractor shall provide the Engineer with a signed certificate stating when the signs were posted, what time periods the zone covers, and a sketch showing the location.
 - b. The Contractor shall also provide photographs of the posting to verify the condition of the **"NO PARKING"** at the time of posting.

PART 4 - MEASUREMENT AND PAYMENT

- A. No separate payment will be made for conforming to the provisions of this section. Full compensation for conforming to all the provisions of this section shall be considered as included in the prices paid for various contract items of work and no additional compensation will be allowed therefor.

NOTE: IF POSTING PROCEDURES ARE NOT PROPERLY FOLLOWED, THE CONTRACTOR SHALL RESCHEDULE THE WORK FOR THAT SITE AND ABSORB ANY INCURRED COSTS.

* * *

SECTION 10.04: TRAFFIC CONTROL (Bid Item No. 4)

PART 1 - GENERAL

1.1 OBJECTIVES

- A. The Contractor shall provide for safe movement of vehicular, bicycle and pedestrian traffic, including persons with disabilities in accordance with the American's with Disabilities Act of 1990 (ADA), through and around construction operations. Traffic control requirements set forth herein are the minimum requirements imposed. The Contractor shall be solely responsible for providing all protective measures necessary.
- B. Proper traffic movement through the work area depends upon the driver controlling and directing his/her vehicle properly under unexpected situations and pedestrian attention to signs. The means of clarifying such conditions to the public include signs, flaggers, pavement markings, barricades, lights, cones and delineators.
- C. No one standard sequence of signs or control devices will suit all conditions which may result from construction operations. Even for the same work the conditions may vary from hour to hour, requiring adjustment and revision of the traffic control program in effect.
- D. The traffic control requirements specified herein are intended to establish general principles to be observed in the control and regulation of traffic through and around construction operations anticipated for the Project. All pedestrian and vehicular detours are subject to review by the sheriff or enforcement officer of the agencies having jurisdiction, and the Contractor shall revise the detours as ordered at no additional cost.
- E. Clean up site each day after completing work and remove all traffic hazards. Daily traffic control measures shall continue until cleanup activities have been satisfactorily completed and all of the Contractor's equipment has been removed from the traveled way area.

1.2 DESCRIPTION OF WORK

- A. Work Included:
 - 1. At all times, the Contractor shall provide safe and adequate passage for vehicular, bicycle, and pedestrian traffic through, around and adjacent to all construction operations by use of detours, bridging, backfilling, paving, traffic barriers or other favorably reviewed means.
 - 2. The Contractor shall establish and maintain detours and conduct his construction operations in such a manner as to minimize hazard, inconvenience and disruption to the public.
 - 3. Traffic control shall be directed equally to the regulation and protection of pedestrian traffic including pedestrians, bicyclists, joggers, skaters, skateboarders, etc.
 - 4. The Contractor shall provide for protection of pedestrians and separation of pedestrians from construction operations at all times.
 - 5. The Contractor shall direct, divert and detour traffic through, around and adjacent to construction operations in accordance with the traffic control plans as specified herein or in accordance with favorably reviewed Traffic Control Plans. The Contractor may revise the Traffic Control Plan as necessary only with the favorable review of the Engineer.

1.3 REFERENCES

- A. 2018 State Standard Plans and Specifications.
- B. 2014 California Manual on Uniform Traffic Controls (CA MUTCD), California Department of Transportation, Revision 3.

1.4 SUBMITTALS

- A. Traffic Control Plans:
 - 1. The Contractor shall submit to the City Engineer project specific traffic control plans a minimum of 10 working days prior to implementing traffic control measures for road construction. Following City review, any traffic control plans requiring revisions shall be submitted to the City within five (5) working days prior to implementing traffic control measures for road construction.
 - 2. Submit Traffic Control Plans to clearly describe proposed traffic control measures. The Traffic Control Plans shall be in accordance with the Standard Plans and Specifications and the CA MUTCD. Traffic Control Plans shall be prepared by a Professional Traffic Operations Engineer (PTOE) or Traffic Control Supervisor (TCS), unless otherwise approved by the City Engineer.
 - 3. The Traffic Control Plan shall provide a detailed approach for detours and to control traffic through the construction zone, shall conform to Caltrans and City standards, and shall be approved by the City Engineer before construction begins.
 - 4. The submittals shall consist of scaled drawings for each situation anticipated to be encountered, i.e., intersections, mid-block (each during working and non-working hours), etc. and necessary details.
 - 5. The scaled drawings shall show signs, traffic control devices, and flaggers as required.

PART 2 - PRODUCTS

2.1 CONSTRUCTION SIGNS

- A. Construction signs shall conform to the standards of the State Standard Plans and Specifications and the CA MUTCD.
- B. Temporary warning signs in construction areas shall have a black legend and border on an orange background. Color for other signs shall follow the standard for all highway signs.
- C. All signs used during hours of darkness shall be retroreflective.

2.2 OTHER TRAFFIC CONTROL DEVICES

- A. General: Traffic control devices shall conform to the standards of the Standard Plans and Specifications, and the CA MUTCD.
- B. Cones or Delineators:
 - 1. Cones or delineators shall consist of cylindrical or cone shaped plastic devices, which shall be 18 inches to 48 inches in height.
 - 2. Cones or delineators shall have a flexible base of suitable weight, which will ensure stability.
 - 3. Cones or delineators used during hours of darkness shall be affixed with retroreflective sleeves or be internally illuminated meeting the requirements of the CA MUTCD.

- C. Barricades:
 - 1. Barricades shall be Type I, Type II or Type III barricades as set forth in the Standard Plans and Specifications, and the CA MUTCD.
 - 2. Barricades used during hours of darkness shall be equipped with flashers.

PART 3 - EXECUTION

3.1 DIVERTING PEDESTRIAN TRAFFIC

- A. Whenever construction operations obstruct the flow of pedestrian traffic or present a hazard to pedestrians, the Contractor shall take appropriate action to protect and separate pedestrians from the work area and to direct pedestrians to alternate routes.
- B. The Contractor, at the end of each day, shall provide pedestrian and vehicle crossings at all street intersections. If the Project is left open overnight, it shall be graded in such a way that pedestrians and vehicles can safely pass through the Project. Temporary concrete, asphalt, or wood ramps shall be installed and maintained at all locations where existing ramps have been temporarily removed.
- C. Such action may include placement of barricades between pedestrians and work areas, placement of warning signs, and provision of personnel as required to protect pedestrians as conditions warrant.

3.2 DIVERTING VEHICULAR TRAFFIC

- A. Whenever construction operations obstruct the flow of vehicular traffic or present a hazard to vehicles operating in the vicinity of construction operations, the Contractor shall take appropriate action to warn, detour and otherwise protect approaching drivers and vehicles.
- B. In general, the work shall be done so that traffic disruption is minimized.
- C. Complete closure of the road to through traffic will not be allowed.
- D. All the necessary detour route signing shall be in place along with “Road Closure/Work Ahead” signs.

3.3 TRAFFIC CONTROL DEVICES

- A. General:
 - 1. Provide traffic control devices in sufficient quantities and types as required providing safe and adequate traffic control.
 - 2. During hours of darkness approved lights shall be included, in proper working order, to illuminate signs and hazards and alert approaching traffic.
 - 3. Provide and maintain barricades along all open trenches in contact with traffic.
 - 4. No work may begin on any day or at any time before traffic control devices have been placed, test driven and, if required, adjusted and revised.
 - 5. Two (2) portable changeable message signs shall be installed, one (1) on each direction of traffic along Park Avenue as directed by the Engineer two (2) weeks prior to start of construction or as directed by the Engineer.
- B. Placement:
 - 1. Place all traffic control devices in accordance with the Standard Plans and

Specifications, the CA MUTCD and approved Traffic Control Plan.

2. Adjust locations of devices to suit the conditions and circumstances of each detour situation. In all cases, place signs to most effectively convey their messages to approaching traffic.
3. The Contractor shall adjust and revise all traffic control devices if determined to be required by the City Engineer or Sheriff's Office.
4. The Contractor shall provide additional traffic control devices if required to maintain the safe flow of traffic through construction operation.

C. Maintenance of Devices:

1. The Contractor shall maintain all traffic control devices, at proper locations and in proper working order, at all times during construction operations and whenever a hazard resulting from Contractor's operations exists.
2. The Contractor shall adjust and revise traffic control devices, placement, etc., to suit changing conditions around construction operations.
3. Portable changeable message signs shall be maintained to the satisfaction of the Inspector.

D. Removal of Devices:

1. Traffic control devices shall remain in place at all times required to alert approaching traffic of upcoming hazards.
2. After hazard has been removed, remove all traffic control devices. Remove signs or completely cover their messages.

3.4 FLAGGERS

A. General: The Contractor shall employ flaggers:

1. As required for each specific detour.
2. At all locations on a construction site where barricades and warning signs cannot control the moving traffic.

B. Placement: Where flaggers are required, they shall be logically placed in relation to the equipment or operation so as to give adequate warning and shall be placed in accordance with the Standard Plans and Specifications, the CA MUTCD, and the approved Traffic Control Plan.

C. Warning Signs:

1. Place warning signs ahead of the flagger in accordance with the Standard Plans and Specifications, the CA MUTCD, and the approved Traffic Control Plan. The distance between signs and the flagger shall be based on the posted traffic approach speed.
2. During hours of darkness, illuminate flagger stations such that the flagger will be clearly visible to approaching traffic. Lights for illuminating the flagger station shall comply with the Standard Plans and Specifications, the CA MUTCD, and the approved Traffic Control Plan.

D. Equipment:

1. Provide flaggers with high-visibility safety apparel in accordance with the Standard Plans and Specifications, and the CA MUTCD at all times. Provide flaggers with hand signs in

accordance with the Standard Plans and Specifications, and the CA MUTCD.

2. Provide flaggers with two-way radios for communication when necessary. Red flags shall only be used for traffic control in emergency situations.

3.5 NOTICE TO AGENCIES

- A. The Contractor shall notify in writing all agencies having jurisdiction at least forty-eight (48) hours, excluding holidays and weekends, prior to instituting any lane closure or detour. At the end of each day's work, the Contractor shall inform the ambulance services, sheriff's office and fire departments of the status of all detours and/or lane or road closures that will be in effect after the next day.
- B. List of Agencies:
 1. City of Capitola
 2. Fire District
 3. Sheriff's Office
 4. U.S. Postal Service
 5. School District Transportation Office, as appropriate
 6. Santa Cruz METRO for bus services
 7. Ambulance Companies

3.6 EMERGENCY VEHICLE ACCESS THROUGH DETOURS

- A. During construction in or adjacent to roadways in the Project site, Contractor shall maintain at least one lane open in each direction of the road to allow emergency vehicle access for sheriff, fire and ambulance to the Project vicinity.
- B. During all detours and/or street closures the Contractor shall provide for movement of emergency vehicles through the work area.
- C. When temporary traffic control is provided by flaggers they shall be instructed to give immediate passage to emergency vehicles with active lights or sirens.
- D. It is essential that the Contractor's work and equipment do not impede egress from any fire station or sheriff's office to other areas of their service area.

3.7 ACCESS TO PRIVATE PROPERTY

- A. General: The Contractor shall schedule operations to minimize disruption of access to private property.
- B. Notice to Residents: Prior to blocking access to any private driveway or parking lot entrance, the Contractor shall notify the resident or business owner or tenant of pending closure and allow resident to remove vehicles.
- C. Nights: During non-working hours no driveway, house or parking lot shall be denied access to a public roadway.

3.8 DETOURS DURING NON-WORKING HOURS

- A. General: The Contractor shall not be permitted to maintain any lane closure or road closure during non-working hours without first obtaining written approval of the Engineer.

- B. Restoration of Pavement:
 - 1. During non-working hours the Contractor shall restore travel lanes to their original alignment and configuration by means of backfilling and temporary pavement or bridging in accordance with City Standards and approved by the City Engineer.
 - 2. The Contractor shall place signs conforming to the Standard Plans and Specifications, and the CA MUTCD at uneven temporary pavement or bridging.

3.9 PARKING RESTRICTIONS

- A. General: The Contractor shall post approved **"NO PARKING – CONSTRUCTION TOW-AWAY ZONE"** signs at all locations necessary to establish work areas and detour traffic.
- B. Signs:
 - 1. Signs shall read: **"NO PARKING - CONSTRUCTION TOW-AWAY ZONE"**.
 - 2. Signs shall be placed at least 72 hours in advance of restriction.

3.10 BRIDGING OVER TRENCHES AND EXCAVATIONS

- A. General: Bridging shall be placed across all trenches and excavations in existing streets and at driveways when work is not in progress. Bridging shall be in accordance with the Standard Plans and Specifications and the CA MUTCD and approved by the City Engineer.
- B. Design of Bridging:
 - 1. Bridging for vehicular traffic shall be of sufficient width to accommodate the required number of travel lanes.
 - 2. Bridging shall be designed to support H-20 vehicular traffic.
 - 3. All bridging shall be set flush with travel surface or a satisfactory transition from travel surface to top of bridging shall be provided.
 - a. A satisfactory transition shall mean a change in elevation between the levels of not less than twelve (12) inches horizontal to one (1) inch vertical.
 - b. Transition may be accomplished by means of temporary pavement.

3.11 TEMPORARY TRAFFIC LANES

- A. Temporary traffic lanes shall be at least 10 feet wide. Provide an additional 2 feet of clearance from curbs. The length of temporary lanes should be limited to the area under construction and the distance necessary to divert traffic in accordance with the Standard Plans and Specifications, the CA MUTCD, and the approved Traffic Control Plan.

3.12 STAGING AREAS

- A. The Contractor shall provide his own staging areas.

PART 4 - MEASUREMENT AND PAYMENT

- A. Attention is directed to all bidders that this bid item for traffic control shall only include the necessary cost to provide traffic control per these specifications.
- B. Bidders shall not include miscellaneous project costs and “front load” all associated cost to this bid item.

- C. Payment for Traffic Control, including preparation of traffic control plans, flagging costs, detour signs, portable changeable message signs, construction work zone signs, barricades, traffic cones, required road closure personnel, street closure monitoring and all incidentals shall be made on a LUMP SUM basis at the contract unit price.
- D. Payment shall include full compensation for all labor, materials, equipment and incidentals for doing all work as specified in the Bid Item for Traffic Control.
- E. The Contractor will be paid on a pro rata basis in direct proportion to the percentage of work completed for other items.

* * *

SECTION 10.05: RAILROAD FLAGGING
(Bid Item No. 5 [Revocable Bid Item])

PART 1 - GENERAL

1.1 DESCRIPTION

- A. The Santa Cruz Branch Rail Line is currently deemed inactive but may become operational and active before the completion of construction operations. Only in the event that the railroad line becomes active, all construction operations occurring within **twenty (20) feet of the nearest rail** shall require railroad flagging.
- B. The Santa Cruz Branch Rail line has both a railroad **Property Owner** and a **Railroad Operator**. The current Property Owner is the **Santa Cruz County Regional Transportation Commission** and the current Railroad Operator is **Progressive Rail Inc. of Minnesota**.
- C. Contractor shall be responsible for making all necessary arrangements and payments for Railroad Flagging with the current Railroad Operator of the Santa Cruz Branch Rail.

PART 2 - PRODUCTS (NOT USED)

PART 3 - EXECUTION

3.1 SCHEDULING FLAGGING

- A. Flagging requests may be arranged by contacting the Railroad Operator’s representative, **Nik Shepard (General Manager – Crossings and Signals Progressive Rail Inc) by telephone at 1-715-379-4686**.
- B. Per the current right of entry (ROE) terms by Progressive Rail, requests require a minimum three (3) business day notice prior to scheduling personnel. \$500/day fee shall be assessed at an 8-hour business day. Work requiring Railroad Flagging out of the scope of an 8-hour “business day” will be assessed as an additional day of work.
- C. It is the contractor’s responsibility to secure the necessary Railroad Flagging required by the current Railroad Operator. If different than these technical specifications, Railroad Flagging shall be conducted per the terms of the current Railroad Operator’s latest right of entry requirements.

PART 4 - PAYMENT

- A. The contract price paid per DAY for Railroad Flagging shall include full compensation for making all arrangements and payments necessary to secure railroad flagging with the Santa Cruz Branch Rail Line Railroad Operator (currently Progressive Rail Inc). No additional compensation will be allowed.
- B. Any costs associated with securing the necessary right of entry (ROE) from the railroad Property Owner (currently Santa Cruz County Regional Transportation Commission) and the Railroad Operator (currently Progressive Rail Inc) shall be included in contract price for Bid Item 1 - Mobilization and Demobilization.

* * *

SECTION 10.06: TEMPORARY STORMWATER POLLUTION CONTROL (Bid Item No. 6)

PART 1 - GENERAL

1.2 WORK INCLUDED

- D. Prohibit illicit discharge (non-rainwater) into the storm drain system.
- E. Construct any and all necessary systems to eliminate contaminants from entering the storm water system.
- F. Clean up and control of work site materials, spoils and debris.
- G. Removal of contaminants produced by the Project.
- H. The work shall include the provision of all labor, materials, equipment and apparatus not specifically mentioned herein or noted on the Project Plans, but which are incidental and necessary to complete the work specified.

1.3 APPLICABLE PUBLICATIONS

- A. Municipal Regional Stormwater Permit, Order No. R3-2013-0032, adopted July 12, 2013.
- B. California Storm Water Best Management Practice Handbooks:
 - 1. Municipal
 - 2. Construction Activity
- C. C.3 Stormwater Technical Guidance Ver. 5.0, June 2016.

1.4 QUALITY ASSURANCE

- A. All work performed under this contract and all Contractors and their associates and/or employees are required to comply with all applicable storm water regulations and to implement Best Management Practices (BMP's) at all times.
- B. A plan shall be submitted for the proposed control of contaminants entering the storm water system. The plan must be approved by the Engineer prior to the commencement of work.
- C. All employees and sub-contractors shall be trained on the storm water pollution prevention requirements contained in these specifications.
- D. A supply of spill clean-up materials such as rags or absorbents shall be kept readily accessible on-site.

PART 2 - PRODUCTS (NOT USED)

PART 3 - EXECUTION

3.1 RECYCLING

- D. At the end of each working day, all scrap, debris and waste material shall be collected, and materials disposed of properly.
- E. Dry, empty paint cans/buckets, old brushes, rollers, rags and drop cloths shall be disposed of in approved waste collection.

- F. Dumpsters shall be inspected for leaks. As leaks are detected, the trash hauling Contractor shall be contacted to replace or repair dumpsters that leak.
- G. Water from cleaning dumpsters shall not be discharged on-site.
- H. Regular waste collection shall be arranged for before dumpsters overflow.

3.2 HAZARDOUS MATERIAL/WASTE MANAGEMENT/MATERIALS MANAGEMENT

- A. Designated areas of the Project site shall be proposed by the Contractor for approval by the Engineer suitable for material delivery, storage and waste collection as far from catch basins, gutters, drainage courses and creeks as possible.
- B. All hazardous materials such as pesticides, paints, thinners, solvents and fuels; and all hazardous wastes such as waste oil and antifreeze shall be labeled and stored in accordance with State and Federal regulations.
- C. All hazardous materials and all hazardous wastes shall be stored in accordance with secondary containment regulations, and it is recommended that these materials and wastes be covered as needed, to avoid potential management of collected rain water as a hazardous waste.
- D. The Contractor shall dispose of all excess thinners, solvents, chemicals, oil-based and water-based paint as hazardous waste.
- E. Regular hazardous waste collection shall be arranged for to comply with time limits on the storage of hazardous wastes.
- F. Granular materials shall be stored a minimum of ten feet from the closest catch basin and curb return. The Contractor shall not allow these granular materials to enter the storm drain or creek.
- G. An accurate up-to-date inventory, including Material Safety Data Sheets (MSDS) of hazardous wastes stored on site shall be kept and available to assist emergency response personnel in the event of a hazardous materials incident.
- H. Maintenance and fueling of vehicles and equipment shall be performed in a designated, bermed area, or over a drip pan that will not allow run-off of spills. Vehicles and equipment shall be regularly checked and have leaks repaired promptly. Secondary containment, shall be used to catch leaks or spills any time that vehicle or equipment fluids are dispensed, changed or poured.

3.3 DUST CONTROL

- A. There is no access to potable water on site. Contractor is not permitted to directly draw water from nearby fire hydrants.
- B. Contractor shall be responsible for obtaining potable water for dust control at their own expense by filling water trucks as needed.
- C. At the end of each working day, or as directed by the Inspector, the roadways and on- site paved areas shall be cleaned and swept of all materials attributed to or involved in the work. Streets shall not be washed down into a storm drain or creek in lieu of street sweeping. Water wash may be picked up by a vacuum unit in lieu of sweeping.

3.4 PAVING OPERATIONS

- A. Catch basins and manholes shall be covered when paving or applying tack coat.

- B. The Inspector may direct the Contractor to protect drainage courses by using control measures such as earth dike, straw bale and sand bag to divert run-off or trap filter sediment.

3.5 SITE CLEANUP

- A. The cleaning of equipment or materials shall not be performed on-site or in the street using soaps, solvents, degreasers, steam cleaning or equivalent methods.
- B. All cleanup must be performed in a designated area that will not allow the cleaning rinse to flow off-site or into streets, gutters, storm drains, or creeks.

PART 4 - PAYMENT

- A. The Contract LUMP SUM price for the item “Temporary Stormwater Pollution Control” shall include full compensation for furnishing all labor, material, tools, equipment, and incidentals and for doing all work associated with this item as shown on the Plans, as specified in the Standard Specifications and these Special Provisions, and as directed by the Engineer.

* * *

SECTION 10.07: PAVING REMOVAL (Bid Item No. 7)

PART 1 - GENERAL

1.1 SECTION INCLUDES

- A. Aggregate base, asphalt, and concrete pavement removal in specified areas to receive new HMA bike lane or paved shoulder.
- B. Disposal of demolished and removed items.
- C. Protection of landscaping, trees, and existing features to remain.
- D. Protect underground utilities.

1.2 FIELD CONDITIONS

- A. Protect improvements, vegetation, and trees adjacent to work to be demolished and removed.

1.3 RELATED SECTIONS

- A. Section 10.06 Temporary Stormwater Pollution Control.
- B. Section 10.15 Hot-Mix Asphalt Paving.

PART 2 - PRODUCTS (NOT USED)

PART 3 - EXECUTION

3.1 GENERAL PROCEDURES AND PROJECT CONDITIONS

- A. Do not use water if that will result in flooding, sedimentation of waterways or storm sewers, or other pollution.
- B. Minimize production of dust.
- C. Perform removal of improvements in a manner that maximizes salvage and recycling of materials.
 - 1. Set aside reusable, recyclable, and salvageable materials; store and deliver to collection point or point of reuse.
- D. Materials including failed street areas, pavement fabric, tree roots, sub grade, or base material which are removed from the worksite to accommodate the installation of new facilities shall become the property of the Contractor and shall be disposed of outside the road right-of-way at a legal dumpsite.

PART 4 - PAYMENT

- A. Remove Surfacing and Base (10-inch Depth) will be measured by the CUBIC YARD as determined by surveyed field measurements.
- B. The contract price paid per CUBIC YARD for Remove Surfacing and Base (10-inch Depth) shall include full compensation for furnishing all labor, materials, tools, equipment, and

incidentals and for fulfilling the requirements of this section.

* * *

SECTION 10.08: CLEARING AND GRUBBING AND TREE REMOVAL (Bid Item No. 8-10)

PART 1 - GENERAL

1.1 WORK INCLUDED

- A. Clearing the entire area within the limits of work of all rubbish, debris and other objectionable material, and disposal of same.
- B. Removal of trees located in the slope repair footprint necessary to properly construct the slope repair.
- C. Dust alleviation and control.
- D. The work shall include the provision of all labor, materials, equipment and apparatus not specifically mentioned herein or noted on the Project Plans, but which are incidental and necessary to complete the work specified.

1.2 JOB CONDITIONS

- A. The Contractor will be held responsible for any damage to trees not identified for removal if injured during construction, i.e., limb breakage, tearing of bark along trunk or excessive root damage.
- B. Contractor shall provide adequate dust alleviation and control measures at all times during the course of the work.

1.3 RELATED SECTIONS

- C. Section 10.13 Revegetation

1.4 APPLICABLE PUBLICATIONS

- A. Trees and Building Sites: Official Publication of the International Society of Arboriculture.

PART 2 - PRODUCTS (NOT USED)

PART 3 - EXECUTION

3.1 PERFORMANCE

- A. Clearing and grubbing shall consist of the removal of organic matter of every nature including grass, shrubs, weeds, and vegetation that will otherwise impede construction operations, as approved by the Inspector.
- B. At sites where the excavation has taken place near trees to remain, and many living roots remain exposed to the air, the Contractor shall cover the exposed roots within 2 hours with sand, soil, moist burlap or other means acceptable to the Inspector.
- C. Spoils from the work site resulting from clearing, grubbing and stripping operations shall be removed from the entire limits of worksite and properly disposed of in accordance with applicable laws and regulations.

3.2 TREE PRUNING

- A. Tree pruning shall be performed to balance the tree crown and eliminate hazards. The main

work performed shall be to reduce the sail effect through thinning, reducing end weights, shortening long heavy limbs, removing deadwood, weak limbs and sucker growth. Limbs shall be pruned back to an appropriate lateral branch.

- B. The pruning work shall be performed in a safe and proper manner, adhering to CAL-OSHA and ANSI Standards.
- C. The Contractor shall be responsible for the preservation of all public and private property. Pruning includes the cutting of limbs, cleanup, removal and disposal of cuttings and debris. Work shall be performed by a two-man crew with one climber, one ground person, a dumping chipper truck and chipper, and any other necessary saws, lines, tools and safety equipment. The work area shall have appropriate cones and signs for safe pedestrian and vehicle traffic.

3.3 TREE REMOVAL (>6" DIAMETER)

- A. Trees located within the slope repair footprint shall be completely removed as necessary to properly construct the slope repair. This shall include the stump and root ball of the tree.
- B. Tree removal work shall be performed in a safe and proper manner, adhering to CAL-OSHA and ANSI Standards.
- C. The Contractor shall be responsible for the preservation of all public and private property. Tree removal includes cutting, cleanup, removal and disposal of cuttings and debris. The work area shall have appropriate cones and signs for safe pedestrian and vehicle traffic.
- D. Removed trees become property of the Contractor and shall be properly disposed of.

3.4 TREE PROTECTION FOR TREES NOT IDENTIFIED FOR REMOVAL

- A. Construction materials, debris, washout water and stockpiles shall not be stored within the drip line or protective fencing area under any tree.
- B. Vehicles shall not be parked under any tree within the drip line or protective fencing area.
- C. Where vehicles or equipment must operate or travel under drip line or unpaved landscape areas, Contractor shall place a minimum 10-inch layer of woodchips or other cushioning surface material approved by the Inspector before starting work there. This mulch layer shall be replenished as necessary to maintain a ten- inch depth until operations in this area are complete and shall be removed upon completion of work unless directed by Inspector. Where crane outriggers or other heavy equipment must be positioned in drip line or unpaved landscape areas, Contractor shall provide additional protection against soil compaction and landscape damage. Means of providing additional protection may include placement of additional mulch, base rock, heavy timbers or steel plates. Contractor shall obtain Inspector's approval for protective measures prior to placing or operating heavy equipment in unpaved landscape over the root areas of trees to remain.

3.5 DUST ALLEVIATION AND CONTROL

- A. Contractor shall be responsible for providing pollution and dust abatement and control measures continuously during the course of the work.
- B. Contractor shall utilize reclaimed water, or dust palliatives, in compliance with the City's Water Conservation Ordinance.

3.6 CLEANUP

- A. Upon completion of clearing and stripping operations, the entire work site shall be cleaned

of all construction debris, waste, rubbish of any nature.

- B. Construction debris, waste and rubbish remaining on-site upon completion of clearing and stripping operations shall become the property of the Contractor, and shall be removed from the work site and disposed of in a lawful manner.

PART 4 - MEASUREMENT AND PAYMENT

- A. Clearing and Grubbing shall be measured by the SQUARE YARD as determined by field measuring the area of actual clearing necessary for the construction of the slope repair and paved shoulder. Full compensation for all labor, materials, tools, and equipment required for fulfilling the requirements of this section shall be considered as included in the contract price paid per square yard for Clearing and Grubbing and no additional compensation shall be made therefor.
- B. Tree Removal (>6" Diameter) shall be measured by EACH as determined by counting the total numbers of trees removed from the project site as necessary for the construction of the slope repair and paved shoulder. For the purposes of payment, a plant is considered a "tree" if the average diameter at breast height (DBH) is greater than 6 inches. Full compensation for all labor, materials, tools, and equipment required for fulfilling the requirements of this section shall be considered as included in the contract price paid per each Tree Removal (>6" Diameter) and no additional compensation shall be made therefor.
- C. Fallen Tree Removal (Approximately 6' Diameter) shall be measured by EACH. Full compensation for all labor, materials, tools, and equipment required for fulfilling the requirements of this section shall be considered as included in the contract price paid per each Fallen Tree Removal (Approximately 6' Diameter) and no additional compensation shall be made therefor.

* * *

SECTION 10.09: EARTHWORK (No Bid Item)

PART 1 - GENERAL

Earthwork shall conform to the provisions in Section 19, “Earthwork,” of the Standard Specifications and these Special Provisions.

This work shall consist of performing all operations necessary to excavate, move, load, haul, stockpile, fill, backfill, compact etc., all material regardless of character and subsurface conditions and furnishing all labor, material, equipment, tools and incidentals for doing all the work that may be required to construct the slope stabilization work and embankment as shown on the plans and these Special Provisions. Compaction of the subgrade shall be a minimum of 90% of maximum dry density as determined by ASTM D-1557 (latest addition), and in accordance with Section 19-6.02 “Embankment Construction” of the Standard Specifications.

Whenever reference to finish grade is made, it shall be considered to be finished surface of the completed project.

Native material excavated from the slope shall be placed according to the following: Structural Backfill, defined to be all materials that must be placed and compacted, shall consist of native materials that remain on-site or are removed, stockpiled and then returned to the site. Imported borrow material, if needed for Structural Backfill and approved by the Engineer, shall be placed according to the specifications. The Contractor shall submit samples of Import Borrow material, if used, for approval a minimum of 5-days prior to plan transportation to the site. No import material shall be brought on-site without the Engineer’s approval.

A Contractor’s request to use and be paid for Import Borrow material will not be approved if suitable excavated material has not been disposed of previously or is available. The Contractor shall present a plan for Engineer’s approval of planned stockpile locations on site a minimum of two (2) days prior to stockpiling. Stockpiling soil on site is encouraged. If stockpiling is requested by the Contractor in the above-mentioned plan to be outside the limits of work, and is approved by the Engineer, such areas shall be restored to a satisfactory condition after the stockpiles are removed. Stockpiles shall be protected relative to dust control, water infiltration, erosion, and storm water pollution. The Contractor shall produce a plan showing proposed construction, equipment storage areas, proposed temporary cut and fill areas, as well as proposed stockpile locations. The plan shall also show locations of proposed excavation and stockpiled materials and all measures to prevent erosion and sediment transport. Excavation slopes and grades shown on the Plans have been developed for the purpose of showing the work in general and for development of quantities. Slopes and grades shown do not relieve the Contractor from the provisions of the Federal Occupational Safety and Health Administration (OSHA) and California Occupational Safety and Health Administration (Cal OSHA) requirements for excavations and trenches. Contractor shall be responsible for completing all work in compliance with applicable regulations.

PART 2 - PRODUCTS (NOT USED)

PART 3 - EXECUTION (NOT USED)

PART 4 - MEASUREMENT AND PAYMENT

- A. No separate payment will be made for conforming to the provisions of this section. Full compensation for conforming to all the provisions of this section shall be considered as included in the prices paid for various contract items of work and no additional compensation will be allowed therefor.

* * *

SECTION 10.10: STRUCTURAL EXCAVATION
(Bid Item No. 11)

PART 1 - GENERAL

Structural Excavation shall conform to the provisions in Section 19-3, "Structure Excavation", of the Standard Specifications and these Special Provisions.

PART 2 - PRODUCTS (NOT USED)

PART 3 - EXECUTION

All excavations shall be unclassified.

Excavation required to complete the specified work, shall conform to these Special Provisions. The limits of grading include removing of soil as shown on the drawings or as directed by the Engineer.

Non-keyway excavations shall be made to the line and grade shown on the plans. No additional payment will be made for over-excavated material unless directed by the Engineer. Areas over-excavated by the Contractor shall be repaired to the Engineer's satisfaction at the Contractor's sole expense. Repair shall be limited to additional excavation necessary to match the intended final slope gradient. The Contractor shall dispose of all surplus material generated by the repair excavation at the Contractor's sole expense.

Temporary excavations needed to facilitate grading operations shall be considered an excavation.

PART 4 - MEASUREMENT AND PAYMENT

- A. The Contract CUBIC YARD price for the item "Structural Excavation" shall include full compensation for furnishing all labor, material, tools, equipment, and incidentals and for doing all work associated with this item as shown on the Plans, as specified in the Standard Specifications and these Special Provisions, and as directed by the Engineer.
- B. Measurements for CUBIC YARD of "Structural Excavation" shall be made by field measurements and volume calculation using an Average End-Area method of the pre-construction existing grade and field survey after performing work under this section. All field measurements shall be performed and documented by a licensed land surveyor.

* * *

SECTION 10.11: STRUCTURAL BACKFILL

(Bid Item No. 12)

PART 1 - GENERAL

Structural Backfill shall conform to the provisions in Section 19-6 “Embankment Construction”, of the Standard Specifications and these Special Provisions.

PART 2 - PRODUCTS (NOT USED)

PART 3 - EXECUTION

Placement and compaction of material shall consist of fill material conforming to these Special Provisions. Structural Backfill material shall be compacted to a minimum of 90% of maximum dry density at a moisture content above but within 3% of the optimum per ASTM test Method D-1557 (latest edition). Lifts shall be no thicker than 8-inches of loose material prior to compaction efforts. The native soil, if free of organic matter or other deleterious materials, is suitable for use as Structural Backfill provided it meets the moisture content requirements and the gradation specified. Structural Backfill for use in construction of the reinforced slope should be primarily granular and meet the following requirements:

- Free of organic matter, deleterious substances, debris and rocks or lumps larger than 3 inches in greatest dimension; no more than 15 percent of the rocks or lumps should be larger than 1 - ½ inches;
- At least 20 percent finer than No. 200 U.S. Standard Sieve;
- Plasticity index less than 20 percent.

Prior to placement of backfill or following excavation to reach final grade, the exposed surface shall be scarified a minimum of 8-inches and re-compacted to a minimum of 90% of maximum dry density at a moisture content above, but within 3% of the optimum per ASTM test method D-1557 (latest edition). No fill shall be placed over porous, wet or spongy sub-grade surfaces. Subgrade areas that do not meet the compaction requirements shall be reworked and retested.

The Contractor shall provide sufficient equipment capable of adding measured amounts of moisture to the soil material as determined by moisture/density tests. The Contractor shall maintain the actual moisture content in the soil material at the time of compaction to within the limits specified for satisfactory soil compaction. Where the sub-grade or layer of soil material must be, moisture conditioned before compaction, uniformly apply and mix the required amount of water into the soil in such a manner as to prevent free water appearing on the surface during or subsequent to compaction operations. Remove and replace, or scarify and air dry, soil material that is too wet to permit compaction to specified percentage of maximum dry density.

PART 4 - MEASUREMENT AND PAYMENT

- A. The Contract CUBIC YARD price for the item “Structural Backfill” shall include full compensation for furnishing all labor, material, tools, equipment, and incidentals and for

doing all work associated with this item as shown on the Plans, as specified in the Standard Specifications and these Special Provisions, and as directed by the Engineer.

- B. Measurements for CUBIC YARD of “Structural Backfill” shall be made by field measurements and volume calculation using an Average End-Area method of the excavated slope grade and field survey after performing work under this section. All field measurements shall be performed and documented by a licensed land surveyor.

* * *

SECTION 10.12: GEOGRID REINFORCEMENT (Bid Item No. 13)

PART 1 - GENERAL

Geogrid Reinforcement shall conform to the provisions in Section 19-6.03E, "Geosynthetic Reinforced Embankment", of the Standard Specifications and these Special Provisions.

Geogrid reinforcement material shall be designed for use in subsurface embankment reinforcement applications and have a regular and defined open area. Geogrid reinforcement shall obtain pullout resistance from the soil by a combination of soil shearing friction on the plane surfaces parallel to the direction of shearing and soil bearing on transverse grid surfaces normal to the direction of grid movement.

PART 2 - PRODUCTS

Geogrid reinforcement shall consist of high modulus, low-creep synthetic materials enclosed in a protective polymer coating that is configured into a grid and meets the applicable material requirements below:

2.1 GEOGRID REINFORCEMENT

- A. SHALL BE TENCATE MIRAFI Miragrid® 2XT OR EQUIVALENT.
- B. Geogrid reinforcement shall meet the following strength and durability requirements:
 - 1. Long Term Design Strength (LTDS) for geogrid reinforcement shall be equal to or greater than 800 pounds per linear foot values shown on the plans as determined in accordance with the requirements for geogrid reinforcement included in the Federal Highway Administration Publication No. FHWA-NHI-00-043 titled, "Mechanically Stabilized Earth Walls and Reinforced Soil Slopes Design and Construction Guidelines." LTDS for geogrid reinforcement are minimum average roll values.
 - 2. Geogrid shall be resistant to naturally occurring alkaline and acidic soil conditions, and to attack by bacteria.

PART 3 - EXECUTION

Geogrid reinforcement shall be handled and stored in accordance with the manufacturer's recommendations and these special provisions. Geogrid reinforcement shall be furnished in an appropriate protective cover which shall protect it from ultraviolet radiation and abrasion during shipping and handling and shall remain in said cover until installed. Only as much geogrid reinforcement shall be placed as can be covered with backfill in the same work shift.

Geogrid reinforcement shall be placed at the locations shown on the plans and held in place to assure the material is pre-tensioned.

Backfill shall be placed in one direction to ensure that the geogrid remains taut. Backfill shall be placed, spread and compacted in such a manner that minimizes the development of slack or loss of pre-tension of the geogrid.

Tracked construction equipment shall not be operated directly on the geogrid. A minimum uncompacted backfill thickness of 6" is required prior to operation of tracked vehicles over the geogrid. Turning of tracked vehicles shall be kept to a minimum to prevent tracks from displacing the fill and damaging the geogrid. Rubber tired equipment may pass over the geogrid reinforcement at slow speeds, less than 10

MPH. Avoid sudden braking and sharp turning.

Geogrid reinforced slopes shall be overbuilt and trimmed back to assure that the slope face is compacted.

PART 4 - MEASUREMENT AND PAYMENT

The Contract SQUARE YARD price for the item “Geogrid Reinforcement” shall include full compensation for furnishing all labor, material, tools, equipment, and incidentals and for doing all work associated with this item as shown on the Plans, as specified in the Standard Specifications and these Special Provisions, and as directed by the Engineer.

* * *

SECTION 10.13: REVEGETATION (Bid Item No. 14)

PART 1 - GENERAL

1.1 DESCRIPTION OF WORK

- A. Soils left barren of vegetation due to work activities shall be re-vegetated in accordance with the following specifications.
- B. Genetic material for all mitigation plantings shall be collected from the project region, preferably within 50 miles of the project location, although seeds and genetic material may have been cultivated outside that radius. Seed shall be supplied on a basis of Pure Live Seed (PLS), and not contain more than one percent (1%) of weed seed.

1.2 APPLICATION PERIOD

- A. Seed shall be applied prior to the winter rainy season (prior to October 15).

1.3 RELATED SECTIONS

- A. Section 10.08 Clearing and Grubbing

PART 2 - PRODUCTS

2.1 EROSION CONTROL SEED MIX

- A. The seed mix may include seed, dye, fertilizer, mulch, and a synthetic binder.
- B. Mulch does not need to be added to the seed mix if an erosion control blanket will be installed on top of the seed mix area.
- C. Grass Species Seed Mix
 - 1. Blue Wildrye: *Elymus glaucus*
 - 2. Beardless wild rye: *Elymus triticoides*
 - 3. California brome: *Bromus carinatus*
 - 4. Common yarrow: *Achillea millefolium*
 - 5. California oatgrass: *Danthonia californica*
 - 6. Meadow barley: *Hordeum brachyantherum*

2.2 Erosion Control Blanket

- A. Erosion control blanket shall be non-woven and made of coconut fiber. Monofilament or woven plastic strands are not permitted. The erosion control blanket shall meet minimum requirements established by the Erosion Control Technology Council (ECTC) specification and the US Department of Transportation, Federal Highway Administration's Standard Specifications for Construction of Roads and Bridges on Federal Highway Projects, FP-03 Section 713.17 as a Type 4 Long-term Erosion Control Blanket.
- B. The material of the erosion control blanket shall consist of a machine-produced 100%

biodegradable mat with a 100% coconut fiber matrix with a functional longevity of at least twenty four (24) months. The erosion control blanket shall be a woven blanket North American Green Nionet C125BN or approved equivalent. The blanket shall be of consistent thickness with the coconut fiber evenly distributed over the entire area of the mat. The blanket shall be covered on the top and bottom sides with 100% biodegradable woven, natural, organic fiber netting. The top netting shall consist of machine directional strands formed from two intertwined yarns with cross directional strands interwoven through the twisted machine strands (commonly referred to as a leno weave) to form an approximate one-half to one inch (½” - 1”) mesh.

- C. Stakes: Wooden stakes shall be used to secure fabric and blankets to the slopes; stakes shall be 1” x 1” hardwood, eight to ten inches (8” - 10”) long. Stakes shall be installed at the frequency and spacing prescribed by the manufacturer for the given slope.

PART 3 - EXECUTION

3.1 REMOVAL OF INVASIVE SPECIES

- A. Existing invasive species within and adjacent to the project area shall be removed prior to hydroseeding grass species.
- B. English Ivy shall be cut with vines and roots removed.

3.2 HYDROSEEDING

- A. Grass Species Seed Mix shall be planted via hydroseeding. Application rate shall be on the basis of Pure Live Seed (PLS) as shown in the table below.

Type	Application Rate (lbs/acre)
Blue Wildrye: <i>Elymus glaucus</i>	5
Beardless wild rye: <i>Elymus triticoides</i>	5
California brome: <i>Bromus carinatus</i>	5
Common yarrow: <i>Achillea millefolium</i>	0.25
California oatgrass: <i>Danthonia californica</i>	5
Meadow barley: <i>Hordeum brachyantherum</i>	3

3.3 EROSION CONTROL BLANKET

- A. Erosion control blanket shall be installed over the entire slope and over seed mix to provide slope stabilization.

MEASUREMENT AND PAYMENT

- A. Revegetation shall be measured by the SQUARE YARD as determined by field measuring the area of slope repair surface. Full compensation for all labor, materials, tools, and equipment required for fulfilling the requirements of this section shall be considered as included in the contract price paid per square yard for Revegetation and no additional

compensation shall be made therefor.

* * *

SECTION 10.14: AGGREGATE BASE COURSE
(Bid Item No. 15)

PART 1 - GENERAL

1.1 SECTION INCLUDES

- A. Aggregate base of depths specified on the plans for Hot-Mix Asphalt (HMA) paving.

1.2 RELATED SECTIONS

- A. Section 10.15 Hot-Mix Asphalt Paving

1.3 REFERENCE STANDARDS

- A. ASTM C136-14 - Standard Test Method for Sieve Analysis of Fine and Coarse Aggregates.
- B. ASTM D1557-12e1 - Standard Test Methods for Laboratory Compaction Characteristics of Soil Using Modified Effort (56,000 ft-lbf/ft³ (2,700 kN m/m<sup>3- C. ASTM D2487-17 - Standard Practice for Classification of Soils for Engineering Purposes (Unified Soil Classification System).
- D. ASTM D4318-17e1- Standard Test Methods for Liquid Limit, Plastic Limit, and Plasticity Index of Soils; 2010.
- E. ASTM D6938-17a - Standard Test Method for In-Place Density and Water Content of Soil and Soil-Aggregate by Nuclear Methods (Shallow Depth).</sup>

1.4 SUBMITTALS

- A. Submit in accordance with 2018 Standard Specifications.
- B. Samples: 50 lb. sample of each type of aggregate; submit in air-tight containers to testing laboratory.
- C. Materials Sources: Submit name of imported materials source.
- D. Aggregate Composition Test Reports: Results of laboratory tests on proposed and actual materials used.
- E. Compaction Density Test Reports.

1.5 DELIVERY, STORAGE, AND HANDLING

- A. When necessary, store materials on site in advance of need.
- B. When aggregate materials need to be stored on site, locate stockpiles where designated.
 - 1. Separate differing materials with dividers or stockpile separately to prevent intermixing.
 - 2. Prevent contamination.
 - 3. Protect stockpiles from erosion and deterioration of materials.

PART 2 - PRODUCTS

2.1 MATERIALS

- A. Class 2 Aggregate Base, 3/4 inch maximum, conforming to Section 26 of the 2018 State

Standard Specifications.

2.2 SOURCE QUALITY CONTROL

- A. Where aggregate materials are specified using ASTM D2487-17 classification, test and analyze samples for compliance before delivery to site.
- B. If tests indicate materials do not meet specified requirements, change material and retest.
- C. Provide materials of each type from same source throughout the Work.

PART 3 - EXECUTION

3.1 EXAMINATION

- A. Verify substrate has been inspected, gradients and elevations are correct, and subgrade is dry.

3.2 PREPARATION

- A. Correct irregularities in substrate gradient and elevation by scarifying, reshaping, and re-compacting.
- B. Do not place aggregate on soft, muddy, or frozen surfaces.

3.3 INSTALLATION

- A. Under new asphalt pavement section:
 - 1. Place Class 2 Aggregate Base, ¾-inch maximum to a total compacted thickness of 4 inches.
 - 2. Compact to 95 percent of maximum dry density as determined by ASTM D1557-12e1.
- B. Under HMA base repair over-excavation:
 - 1. Place Class 2 Aggregate Base, ¾-inch maximum to a total compacted thickness of 6 inches.
 - 2. Compact to 95 percent of maximum dry density as determined by ASTM D1557-12e1.
- C. Place Aggregate Base and roller compact to specified density.
- D. Add small quantities of fine aggregate to coarse aggregate as appropriate to assist compaction.
- E. Add water to assist compaction. If excess water is apparent, remove aggregate and aerate to reduce moisture content.
- F. Use mechanical tamping equipment in areas inaccessible to compaction equipment.

3.4 TOLERANCES

- A. Scheduled Compacted Thickness: Within 1/2 inch.

3.5 FIELD QUALITY CONTROL

- A. Compaction density testing will be performed on compacted aggregate base course in accordance with ASTM D6938-17a.
- B. Results will be evaluated in relation to compaction curve determined by testing un-

compacted material in accordance with ASTM D1557-12e1 ("modified Proctor").

- C. If tests indicate work does not meet specified requirements, remove work, replace and retest at no additional cost to the City.

PART 4 - PAYMENT

- A. Aggregate Base (4-Inch Depth) will be measured by the TON as determined by certified weight tickets. Measurement and verification of quantities shall be coordinated with the Inspector.
- B. The Contract price per TON for the item "Aggregate Base (4-Inch Depth)" shall include full compensation for furnishing all labor, material, tools, equipment, and incidentals and for doing all work associated with this item as shown on the Plans, as specified in the Standard Specifications and these Special Provisions, and as directed by the Engineer.

* * *

SECTION 10.15: HOT-MIX ASPHALT PAVING
(Bid Item No. 16)

PART 1 - GENERAL

1.1 SECTION INCLUDES

- A. Hot-mix asphalt (HMA) paving of the depths specified on the Plans for the bike lane and paved shoulder.

1.2 RELATED SECTIONS

- A. Section 10.14 Aggregate Base Course
- B. Section 10.18 Pavement Markings

1.3 REFERENCE STANDARDS

- A. State Standard Specifications 2018, Section 39.

1.4 QUALITY CONTROL

- A. Perform work in accordance with State Standard Specifications 2018, Section 39.
- B. Obtain materials from same source throughout.

1.5 FIELD CONDITIONS

- A. Do not place HMA when ambient air or base surface temperature is less than 50 degrees F, or surface is wet or frozen.

1.6 SUBMITTALS

- A. Submit Job Mix Formula for Hot Mix Asphalt for paving in accordance with State Standard Specification Section 39-2.

PART 2 - PRODUCTS

2.1 MATERIALS

- A. Asphalt Binder for HMA Paving: Performance Graded (PG) asphalt binder PG 64-10 according to Section 92 Asphalt Binders of the 2018 State Standard Specifications.
- B. Aggregate for HMA (final paving lift of roadway): 1/2-inch Type A.
- C. Tack Coat: Type SS1h according to Section 94 Asphaltic Emulsions of the 2018 State Standard Specifications.

2.2 ASPHALT PAVING MIXES AND MIX DESIGN

- A. Contractor shall furnish hot-mix asphalt (HMA) using reclaimed asphalt pavement (RAP) and shall comply with the requirements of Section 39-2.02B(5) Reclaimed Asphalt Pavement of the 2018 State Standard Specifications.
- B. Submit proposed mix designs for review prior to beginning of work.

PART 3 - EXECUTION

3.1 AGGREGATE BASE

- A. Aggregate base to receive HMA must comply with the compaction and elevation tolerance specifications in the sections for the material involved.
- B. Remove loose paving particles, dirt, and other extraneous material and sweeping.

3.2 PREPARATION - TACK COAT

- A. Apply tack coat in accordance with manufacturer's instructions and at residual application rates according to Section 39-2.01C(3)(f).
- B. Apply tack coat on asphalt vertical cut surfaces at uniform rate of 0.03 gallons per square yard (gal/sq yd) minimum residual rate.
- C. Coat surfaces of manhole frames with oil to prevent bond with asphalt pavement. Do not tack coat these surfaces.

3.3 PLACING ASPHALT PAVEMENT

- A. Construct asphalt pavement as per Section 39-2.01C. Place asphalt pavement to a maximum of three (3) inches compacted thickness or as indicated in plans.
- B. Perform rolling to achieve even and smooth finish, without roller marks. The surface shall be uniform in appearance and free of segregation.
- C. Broom the pavement before application of tack coat if the surface is not clean and broom if pavement is left overnight or longer between lifts.

3.4 TOLERANCES

- A. Compacted Thickness: within 1/4 inch of specified or indicated thickness.
- B. Variation from True Elevation: within 1/2 inch.

3.5 QUALITY CONTROL AND ASSURANCE

- A. The Contractor shall submit the Job Mix Form (JMF) to the Engineer for approval in accordance with 2018 State Standard Specifications. Contractor shall perform density testing according to 39-2.01A(4)(H)(vi) and 39-2.01A(4)(h)(viii) – nuclear gauge and coring based on 2018 State Standard Specifications. Engineer accepts HMA based on authorized JMF, asphalt binder compliance, density, and visual inspection. Payment will be according to 39-2.01A(4)(i)(ii) In-Place Density.
- B. Check thickness of surfacing by coring when requested by the Inspector.
- C. Contractor shall:
 - 1. Flood all paved surfaces with water to verify positive drainage.
 - 2. Repair areas cored for testing.
 - 3. As requested by the Inspector, remove and replace or repair all paving not meeting Contract Document requirements.

3.6 PROTECTION

- A. Immediately after placement, protect pavement from mechanical injury for two (2) days or

until surface temperature is less than 140 degrees F.

3.7 DUST ALLEVIATION AND CONTROL

- A. Contractor shall provide satisfactory pollution and dust abatement and control measures continuously during the course of the work.
- B. The Contractor shall utilize reclaimed water, or dust palliatives, in compliance with the City's Water Conservation Ordinance.

3.8 TRAFFIC CONTROL

- A. Provide satisfactory traffic control measures and warning devices to safely detour traffic around construction activity in accordance with Section 10.04 of these Technical Specifications.
- B. If the street is to be opened for traffic, or as directed by the Inspector, temporary delineation shall be placed on new surfaces immediately after the asphalt concrete has been finished rolled. Temporary delineation shall conform to Section 10.18 of these Technical Specifications.

PART 4 - MEASUREMENT AND PAYMENT

- A. Hot Mix Asphalt (6-Inch Depth) will be measured by the TON as determined by certified weight tickets. Measurement and verification of quantities shall be coordinated with the Inspector.
- B. The contract price paid per TON for Hot Mix Asphalt (6-Inch Depth) shall include full compensation for furnishing all labor, materials, tools, equipment, and incidentals and doing all work involved in constructing HMA pavement of the various depths including mix design preparation and quality control testing and reporting, complete in place, as shown on the Plans and as specified in the State Standard Specifications and these Technical Specifications.
- C. Full compensation for furnishing and applying tack coat shall be considered as included in the contract price paid per TON of Hot Mix Asphalt (6-Inch Depth) and no separate payment will be made therefor.

* * *

SECTION 10.16: STORM DRAIN IMPROVEMENTS
(Bid Item No. 17)

PART 1 - GENERAL

1.1 WORK INCLUDED

- A. Storm drain improvements shall include furnishing and field fitting a storm drain catch basin directly inline with an existing storm drain pipe and a concrete headwall to make use of the existing headwall.

1.2 RELATED SECTIONS

- B. 10.17 AC Dike

PART 2 - PRODUCTS

2.1 CATCH BASIN

- A. Catch basin shall be Caltrans Type G1 as shown on Caltrans Standard Plan D72E, or approved equal. If required for field fitting, contractor shall use 6” or 12” concrete risers as needed. Grate shall be Caltrans Type 24-13 as shown on Caltrans Standard Plan D77B or another suitable grate approved for bicycle use.

PART 3 - EXECUTION

3.1 FIELD FIT CATCH BASIN

- A. Contractor shall field fit the Catch Basin as shown on the plans along the existing storm drain pipe alignment.

PART 4 - MEASUREMENT AND PAYMENT

- A. Storm Drain Catch Basin (Caltrans Type G1) shall be measured by EACH and shall include full compensation for furnishing all labor, materials, tools, equipment and incidentals, and for doing all the work involved in installing drop inlets complete in place, including but not limited to excavation and backfill, connecting of pipes, including concrete collars, as shown on the plans, and as specified in these specifications and the Technical Specifications, and as directed by the City.

* * *

SECTION 10.17: AC DIKE
(Bid Item No. 18)

PART 1 - GENERAL

1.1 WORK INCLUDED

- A. Asphalt Concrete (AC) Dike installed on new and existing paved shoulder to channel water into a new catch basin.

1.2 RELATED SECTIONS

- A. Section 10.16 Storm Drain Improvements

1.3 REFERENCE STANDARD

- A. 39-2.01B(11), “Miscellaneous Areas and Dikes,” of the Standard Specifications

1.4 Type

- A. AC Dike shall be Caltrans Type F AC Dike per Standard Plan A87B

PART 2 - PRODUCTS

2.2 Asphalt Concrete

- A. Asphalt concrete shall be 3/8 inch HMA Type A with a minimum asphalt binder content of 6%. Asphalt binder shall be PG-64-10.
- B. The combined aggregate grading for asphalt concrete dikes placed shall conform to that specified for the asphalt concrete placed on the roadway, unless otherwise directed by the Engineer. The amount of asphalt binder used in the asphalt concrete placed in dikes, unless otherwise directed by the Engineer, shall be increased one percent by weight of the aggregate over the amount of asphalt binder used in the asphalt concrete placed on the roadway.

PART 3 - EXECUTION

2.3 Placement

- A. Place AC Dike per Standard Plan A87B of the Standard Plans and align the dike as shown on the plans. Dikes shall be shaped and compacted with an extrusion machine or other equipment capable of shaping and compacting the material to the required cross section.

PART 4 - MEASUREMENT AND PAYMENT

- A. AC Dike shall be measured by the LINEAR FOOT as determined by field measuring the length. Full compensation for all labor, materials, tools, and equipment required for fulfilling the requirements of this section shall be considered as included in the contract price paid per linear foot for AC Dike and no additional compensation shall be made therefor.

* * *

SECTION 10.18: PAVEMENT MARKINGS (Bid Item No. 19)

PART 1 - GENERAL

1.1 WORK INCLUDED

- A. Inventory and record layout of existing traffic striping, pavement markings, and markers.
- B. Cleaning and sweeping of surface before application of markings and striping.
- C. Application of temporary and permanent stripes and pavement markings.
- D. Restoration of existing conditions per layout recorded prior to surface treatment.
- E. Supplying all labor, materials, equipment and apparatus not specifically mentioned herein or noted on the Project Plans, but which are incidental and necessary to complete the work specified.

1.2 QUALITY ASSURANCE

- A. Manufacturer's certificates showing conformance with this specification shall be delivered with each shipment of materials and equipment delivered to the job site.
- B. Codes and Standards
 - 1. The standards, recommended methods and tests contained in the publications cited below shall determine the standards for the work to be done hereunder unless otherwise specifically designated on the plans:
 - a. The *California Manual on Uniform Traffic Control Devices (California MUTCD)*, 2014 edition Revision 3.
 - b. The regulations, standards, and tests of the State of California Department of Transportation Materials and Research Division.
 - c. The State of California Standard Plans and Standard Specifications, and applicable related Standard Special Provisions.
 - 2. Traffic signs, roadway markers and delineators, traffic stripes, pavement markings, and signs & posts shall be placed in the locations shown on the plans and shall conform to the applicable sections of the CA MUTCD and the State of California Highway Design Manual.
 - 3. Reference by manufacturers, brands or models is to establish type and quality of materials desired. Substitutions of materials of equal quality will be permitted upon the prior written approval.

1.3 JOB CONDITIONS

- A. No striping, markings, markers, and sign & posts shall be applied until pavement surfaces have been approved.
- B. Concrete shall be thoroughly cured before application of striping, markings, markers, and sign & posts thereon.

1.4 SUBMITTALS

- A. Traffic striping, pavement marking, and markers inventory.

- B. For each lot or batch of thermoplastic and glass beads, submit:
 - a. Certificate of compliance, including the product name, lot or batch number, and manufacture date.
 - b. METS notification letter stating that the material is authorized for use.
 - c. SDS
- C. For glass beads used in drop-on applications and in thermoplastic formulations, submit a certificate of compliance and test results for each lot of beads specifying the EPA test methods used and tracing the lot to the specific test sample. The testing for lead and arsenic content must be performed by an independent testing laboratory.
- D. Submit retroreflectivity readings for traffic stripes and pavement markings at locations with deficient retroreflectivity determined by the Inspector.

PART 2 - PRODUCTS

2.1 TEMPORARY PAVEMENT MARKERS

- A. Short term, temporary pavement markers shall be day/night retroreflective raised pavement markers conforming to the requirements of Section 12 of the State Standard Specifications and Part 6 of the CA MUTCD.

2.2 THERMOPLASTIC STRIPES AND MARKINGS

- A. Traffic stripes and pavement markings shall be thermoplastic material. Thermoplastic stripes and markings shall be extruded thermoplastic conforming to Section 84-1 and 84-2 of the State Standard Specifications.
- B. Thermoplastic stripes and markings shall have a minimum skid friction value of BPN=35.
- C. Glass beads applied to molten thermoplastic material, or paint must comply with State Specification 8010-004.
- D. Submit certificates of compliance showing conformance with this specification for each load of material delivered to the job site.

2.3 PROTECTION

- A. The Contractor shall protect the newly installed thermoplastic pavement markers, stripes, and signs & posts from damage until the material has cured.
- B. Replace any markers or signs & posts broken, misaligned or otherwise disturbed prior to opening road to traffic.

PART 3 - EXECUTION

3.1 TEMPORARY PAVEMENT MARKERS

- A. Temporary pavement markers shall be installed and replaced as directed.
- B. If permanent pavement markers cannot be installed immediately, short term, temporary pavement markers shall be installed on new surfaces before the road will be opened for traffic.

3.2 THERMOPLASTIC STRIPES AND MARKINGS

- A. Thermoplastic stripes and markings shall be applied in conformance with the manufacturer's recommended instructions and the applicable requirements of Section 84-2.03 of the State Standard Specifications.
- B. Use mechanical wire brushing to remove dirt, contaminants, and loose material from the pavement surface that is to receive the traffic stripe or pavement marking. Use abrasive blast cleaning to remove laitance and curing compound from the surface of new concrete pavement that is to receive the traffic stripe or pavement marking.
- C. Apply a traffic stripe or a pavement marking to a dry surface during a period of favorable weather when the pavement surface is above 50 degrees F. Apply extruded thermoplastic at a temperature from 400 to 425 degrees F, unless a different temperature is instructed by the manufacturer.
- D. Apply glass beads to the surface of the molten thermoplastic at a rate of at least 8 lb/100 sq ft. Glass beads must be embedded in the coat or thermoplastic to a depth of 1/2 their diameters.
- E. Apply extruded thermoplastic for a traffic stripe at a rate of at least 0.20 lb/ft of 4- inch wide solid stripe. The applied thermoplastic traffic stripe must be at least 0.06 inch thick. An applied thermoplastic pavement marking must be 0.10 to 0.15 inch thick.

3.3 PAVEMENT MARKERS

- A. Pavement markers shall be installed in conformance with the requirements of Section 81-3 of the State Standard Specifications.
- B. Remove undesirable material from the pavement surface. Clean the pavement surface by abrasive blast cleaning when directed by the Inspector.
- C. Markers shall be installed accurately to the line established by the Inspector. No markers shall be installed until the surface and layout have been approved by the Inspector.

3.4 REFLECTORIZED MARKERS

- A. ReflectORIZED markers shall be installed in conformance with the requirements of Section 82-5.03 of the State Standard Specifications, except that the metal marker posts shall not be driven in place without prior approval of the Inspector.
- B. ReflectORIZED markers shall be installed accurately at the locations called for on the plans and in the positions specified on the detail drawings.

3.5 RESTORATION OF EXISTING IMPROVEMENTS

- A. Existing signs or other markings removed or damaged due to the installation of roadway markers or traffic control signs shall be replaced in kind.
- B. Existing landscaping or planting removed, damaged or disturbed due to the installation of roadway markers or traffic control signs shall be replaced in kind.

3.6 CLEANUP

- A. Upon completion of the installation of Pavement Markings and Accessories, Contractor shall thoroughly clean the work site of all waste, rubbish and construction debris of any nature.

PART 4 - MEASUREMENT AND PAYMENT

- A. Full compensation for all labor, materials, tools, and equipment required for fulfilling the requirements of this section shall be considered as included in the contract price paid LUMP SUM for Thermoplastic Striping and Markings and no additional compensation shall be made therefor.

* * *

SECTION 11

NOT USED

SECTION 11.01: NOT USED
(No Bid Item)

* * *

SECTION 12

NOT USED

SECTION 12.01: NOT USED

(No Bid Item)

* * *



RIGHT OF ENTRY AGREEMENT
Santa Cruz Branch Rail Line Right-of-Way

Recitals

Whereas, the Santa Cruz County Regional Transportation Commission (SCCRTC) owns that particular real property commonly known as the Santa Cruz Branch Rail Line Right-of-Way (Property); and

Whereas, the City of Capitola (Grantee), (420 Capitola Avenue, Capitola, CA 95010) desires to use SCCRTC Property between Milepost 14.7 and 15.1 for the purpose of the Reconstruction of the Storm Damaged bike lane and shoulder on Park Avenue, Federal No. ER-32L0(346); and

Whereas Grantee's use of the Property as construction of the storm damage repair along Park Avenue is a compatible use and shall not conflict with SCCRTC's use of the Property.

Now, therefore the parties do hereby agree as follows:

Terms of Right of Entry

1. Right of Entry/Purpose. SCCRTC hereby grants permission to Grantee, its contractors and/or authorized agents, to enter and construct the storm damage repairs at the locations indicated in **Exhibit A**, Project Description and Site Plan, attached hereto and incorporated herein, and for no other purposes, unless this right of entry agreement is modified by the mutual written agreement of the parties hereto.

2. Term. The term of this agreement shall be through December 30, 2021, unless terminated by SCCRTC effective immediately upon written notice to Grantee of noncompliance with any term hereof.

3. Fee. A flat review fee of **\$2,500**, payable prior to entry upon the Property will be charged. Failure to pay all amounts when due shall entitle SCCRTC to terminate this agreement effective immediately upon written notice.

4. Site Conditions. At termination of this right of entry, Grantee shall leave the SCCRTC Property in clean and orderly condition and shall restore or replace in-kind any improvements or landscaping damaged by Grantee. In the event Grantee fails to do so, the SCCRTC shall have the right to repair damages caused by Grantee and Grantee shall be responsible to pay SCCRTC all costs arising therefrom immediately upon receipt of an invoice therefor.

5. Permits. Grantee shall be responsible for obtaining any necessary permits or inspections that may be required for any work performed on the SCCRTC Property, expressly including but not limited to any and all regulatory oversight of the work by the County of Santa Cruz Environmental Health Division, and all costs thereof.

6. Rail Safety. At least ten (10) days before entering the Property under this right of entry agreement, Grantee will contact Nik Shepard, St. Paul & Pacific Railway to provide notice of the date, time, location, duration and nature of activity to be done. St. Paul & Pacific Railway's contact information is: (715) 379-4686. The Grantee also agrees to abide by all safety laws, regulations and requirements associated with working on and in the vicinity of a railroad track, and all conditions of entry that may be required by St. Paul & Pacific Railway to avoid interference with its rights, including but not limited to all terms and conditions set forth in the attached Exhibit C, incorporated herein.

7. Indemnification. Grantee agrees to indemnify, defend, protect and hold SCCRTC, St. Paul & Pacific Railway, Progressive Rail, and the Property, free and harmless from any and all loss, liability, claims, action, suit, proceeding, deficiency, fine, penalty, damages and expenses (including, but not limited to, reasonable attorneys’ fees, expert witness fees and costs) arising directly or indirectly from Grantee’s use of the SCCRTC Property granted by this right of entry. The foregoing obligation shall expressly apply but shall not be limited to any claims or liability arising from disturbance or release of hazardous materials, as defined by applicable law, on the Property by Grantee or its contractors, subcontractors, employees or agents. This clause shall survive expiration or termination of this Agreement.

8. Insurance. During the full term of this right of entry, Grantee shall maintain, at its sole cost and expense, insurance coverage as detailed in Exhibit B, Insurance Requirements, attached hereto and incorporated herein. Grantee shall provide required certificates of insurance to SCCRTC at least ten (10) days prior to entry onto the SCCRTC Property.

In WITNESS WHEREOF,

SCCRTC has executed this Agreement as of the _____ day of _____, 20_____.

Grantee has executed this Agreement as of the 9th day of July, 2019.

Right of Entry accepted as stipulated herein: Steven Jesberg, Public Works Director City of Capitola <u>[Signature]</u> <u>7-9-19</u> Date	Right of Entry granted as stipulated herein: Guy Preston, Executive Director Santa Cruz County Regional Transportation Commission <u>[Signature]</u> <u>7/11/19</u> Date
	APPROVED AS TO FORM: <u>[Signature]</u> <u>6/11/19</u> SCCRTC Counsel Date
	APPROVED AS TO INSURANCE: <u>[Signature]</u> <u>6/13/19</u> Risk Management Date
	FOR APPROVAL: <u>[Signature]</u> <u>6/13/19</u> Engineer Date

EXHIBIT A

PROJECT DESCRIPTION AND SITE PLAN

Proposal:

City of Capitola plans to reconstruct a storm damaged AC bike lane and shoulder on Park Avenue located between Coronado Street and McGregor Drive. Reconstruction of the bike path includes reconstructing the embankment slope to an approximate 2H:1V slope including geotechnical stabilization with geogrid and erosion protection measures.

Site Plan:

(Attached)



501 Canal Blvd, Suite 1
Richmond, CA, 94804
(510) 215-3200 • Fax (510) 215-2959



07/10/2019

**RECONSTRUCT STORM
DAMAGED BIKE PATH
AND SHOULDER ON
PARK AVE.**

FEDERAL NO.
ER-32L0(346)



420 CAPITOLA AVENUE
CAPITOLA, CA 95010

OWNER

NO.	DATE	DESCRIPTION
PROJECT NO:	303.08.55	
DESIGNED BY:	JR	
DRAWN BY:	JR, PS	
CHECKED BY:	JM	DATE: 07/30/2019
DATE:	07/10/2019	

This review is the property of ANCE, including all drawings and specifications. No part of this drawing may be reproduced or transmitted in any form or by any means, electronic or mechanical, including photocopying, recording, or by any information storage and retrieval system, without the prior written permission of ANCE.

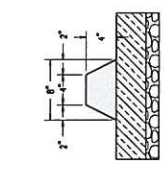
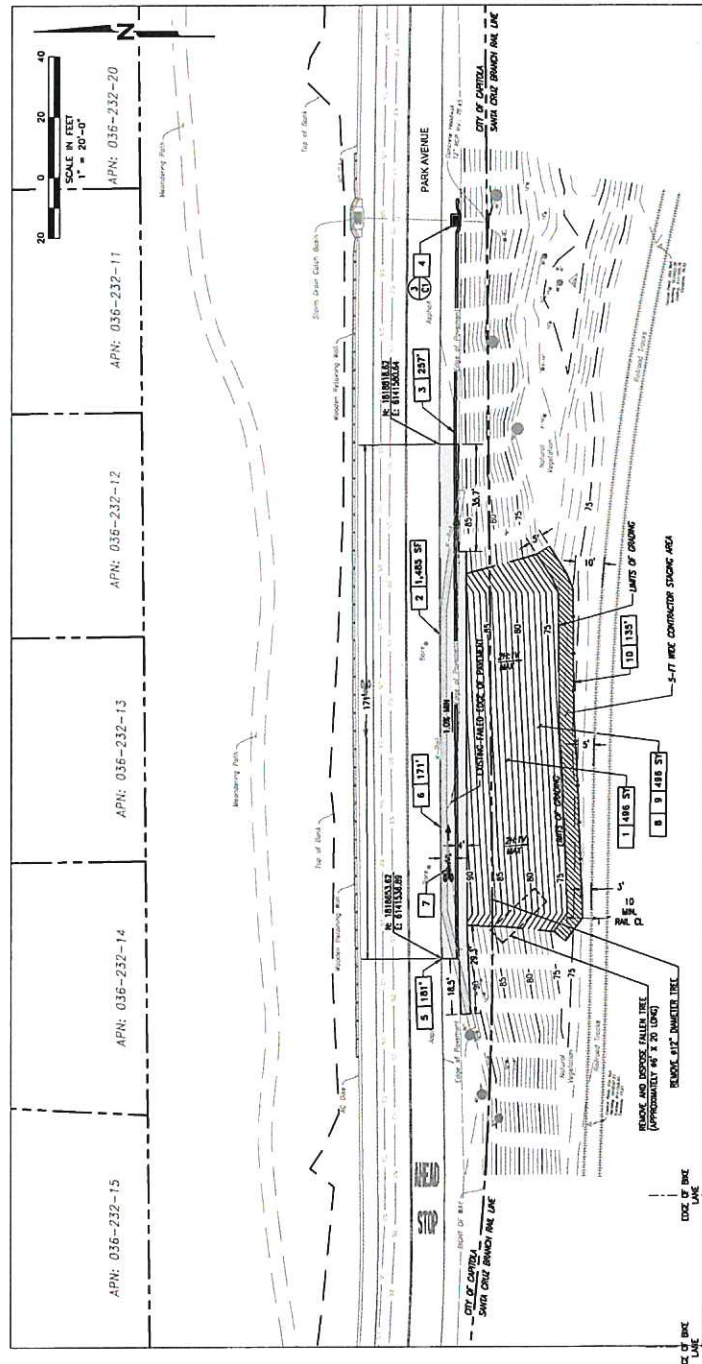
SLOPE REPAIR PLAN

DRAWING C1

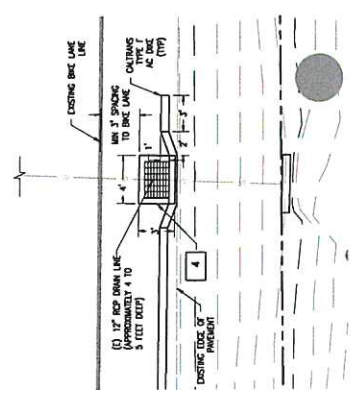
SHEET 3 OF 4

- GENERAL NOTES:**
- CONTRACTOR SHALL DEMOLISH AND REMOVE EXISTING CONCRETE CURB AND SIDEWALK AND RECONSTRUCT WITH NEW CONCRETE TO MATCH EXISTING SURFACE AND STRENGTH FOR THE DURATION OF THE PROJECT.
 - AT THE END OF CONSTRUCTION OPERATIONS DAMAGED CONCRETE SHALL BE RETURNED TO THE CITY AT A DESIGNATED LOCATION IN THE CITY AS DETERMINED BY CITY STAFF.
 - CONTRACTOR SHALL MAINTAIN EXISTING ADJACENT UTILITIES AND STRUCTURES TO REMAIN UNHARMED AND CLEAR OF THE LINE AT ALL TIMES.
 - ALL CONSTRUCTION OPERATIONS OCCURRING WITHIN TWENTY (20) FEET OF THE NEAREST PAVEMENT SHALL REQUIRE BARRIERS PLACING CONSTRUCTION OPERATIONS TO BE AT LEAST TWENTY (20) FEET FROM THE PAVEMENT FOR MORE INFORMATION.

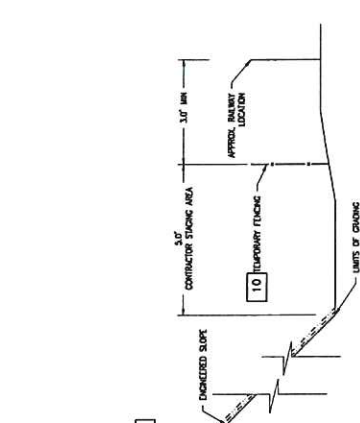
- CONSTRUCTION METHODS:**
- STABILIZE SLOPE AT 2% MAXIMUM. SEE DETAILED SLOPE REPAIR ON SHEET C2. CHANGE LIMITS TO REMAIN 10'-11" MINIMUM FROM CURBLINE OF ADJACENT TRUCKS.
 - CONTRACTOR SHALL PROTECT ROAD SECTION WITH 18" HIGH OVER THE ROAD CURB AND 18" HIGH OVER THE SHOULDER CURB PER CALIFORNIA STANDARD PLAN RSP 407R. SEE DETAIL, 1/2" SCALE.
 - CONTRACTOR SHALL BASH PER CALIFORNIA TYPE C1 DRAINAGE WITH 1" MINIMUM AND 6" MAXIMUM SPACING OF 1" MINIMUM TO 1" MAXIMUM OVER THE EXISTING 1/2" RSP. SEE DETAIL, 1/2" SCALE.
 - 5" SAW CUT A.C. PAVEMENT
 - 2" THICK, 1" THICKENED WHITE BIKE LANE MIX
 - 1" THICK AND 6" BIKE LANE MIX
 - 1" THICK AND 6" BIKE LANE MIX
 - 1" THICKENED SLOPE. REFER TO SPECIFICATIONS FOR SET MIX.
 - TEMPORARY BRIDGE CONSTRUCTION TRUCKING (4'-11" HIGH).



PAVING DETAIL: HOT MIX ASPHALT DIKE
N.T.S.



PAVING DETAIL: SHOULDER REPAIR
N.T.S.



CATCH BASIN
N.T.S.



Know what's below.
Call before you dig.

FINAL PLANS
ISSUED FOR
CONSTRUCTION
DATE: 07-15-2019

EXHIBIT B

**INSURANCE REQUIREMENTS
RIGHT OF ENTRY**

1. **INSURANCE.** GRANTEE, at its sole cost and expense, for the full term of this Right of Entry (and any extensions thereof), shall obtain and maintain at minimum compliance with all of the following insurance coverage(s) and requirements. Such insurance coverage shall be primary coverage as respects SCCRTC and any insurance or self-insurance maintained by SCCRTC shall be excess of GRANTEE'S insurance coverage and shall not contribute to it.

If GRANTEE utilizes one or more subcontractors in the performance of work pursuant to this Right of Entry, GRANTEE shall obtain and maintain Independent Contractor's Insurance as to each subcontractor, or otherwise provide evidence of insurance coverage from each subcontractor equivalent to that required of GRANTEE in this Right of Entry, unless GRANTEE and SCCRTC both initial here ____ / ____.

A. Types of Insurance and Minimum Limits

(1) Worker's Compensation in the minimum statutorily required coverage amounts. This insurance coverage shall not be required if the GRANTEE has no employees and certifies to this fact by initialing here _____.

(2) Automobile Liability Insurance for each of GRANTEE'S vehicles used in the performance of this Right of Entry, including owned, non-owned (e.g. owned by GRANTEE'S employees), leased or hired vehicles, and a Motor Carrier Act Endorsement for hazardous materials clean up (MCS-90) in the minimum amount of \$1,000,000 combined single limit per occurrence for bodily injury and property damage. This insurance coverage shall not be required if vehicle use by the GRANTEE is not a material part of performance of this Right of Entry and GRANTEE and SCCRTC both certify to this fact by initialing here ____ / ____.

(3) Comprehensive or Commercial General Liability Insurance coverage in the minimum amount of \$5,000,000 for each occurrence or claim and an aggregate limit of at least \$10,000,000, including coverage for: (a) bodily injury and death, (b) personal injury, (c) broad form property damage, (d) contractual liability, (e) fire legal liability, (f) products and completed operations and (g) cross-liability.

(4) Railroad Protective Liability insurance naming only SCCRTC and St. Paul & Pacific Railway as the insured with a combined single limit of \$2,000,000 per occurrence with a \$6,000,000 aggregate. A binder stating the policy is in place must be submitted to the SCCRTC until the original policy is forwarded to the SCCRTC. This insurance coverage shall not be required by the SCCRTC if this segment of track is out of service for the duration of construction, by initialed here SC.

(4) Professional Liability Insurance in the minimum amount of \$ _____ combined single limit, if, and only if, this Subparagraph is initialed by GRANTEE and SCCRTC ____ / ____.

B. Other Insurance Provisions

(1) If any insurance coverage required in this Right of Entry is provided on a “Claims Made” rather than “Occurrence” form, GRANTEE agrees to maintain the required coverage for a period of three (3) years after the expiration of this Right of Entry (hereinafter “post Right of Entry coverage”) and any extensions thereof. GRANTEE may maintain the required post Right of Entry coverage by renewal or purchase of prior acts or tail coverage. This provision is contingent upon post Right of Entry coverage being both available and reasonably affordable in relation to the coverage provided during the term of this Right of Entry. For purposes of interpreting this requirement, a cost not exceeding 100% of the last annual policy premium during the term of this Right of Entry in order to purchase prior acts or tail coverage for post Right of Entry coverage shall be deemed to be reasonable.

(2) All required Automobile and Comprehensive or Commercial General Liability Insurance shall be endorsed to contain the following:

“The Santa Cruz County Regional Transportation Commission, its officials, employees, agents and volunteers are added as an additional insured as respects the operations and activities of, or on behalf of, the named insured performed under Right of Entry with the SCCRTC of Santa Cruz.”

“St. Paul & Pacific Railway, Progressive Rail, their officials, employees, agents and volunteers are added as additional insured as respects the operations and activities of, or on behalf of, the named insured performed under Right of Entry with the SCCRTC of Santa Cruz.”

Any exclusions for railroads (except where the job site is more than fifty feet from any railroad including but not limited to tracks, bridges, trestles, roadbeds, terminals, underpasses or crossings), and explosion, collapse and underground hazard shall be removed.

Subrogation against SCCRTC, St. Paul & Pacific Railway, Progressive Rail shall be waived

(3) All required insurance policies shall be endorsed to contain the following clause: “This insurance shall not be canceled until after thirty (30) days prior written notice has been given to:

**Santa Cruz County Regional Transportation Commission
Attn: Yesenia Parra
1523 Pacific Avenue
Santa Cruz, CA 95060-3911**

(4) GRANTEE agrees to provide its insurance broker(s) with a full copy of these insurance provisions and provide SCCRTC on or before the effective date of this Right of Entry, at least ten (10) days in advance of the work, with Certificates of Insurance for all required coverages. All Certificates of Insurance shall be delivered or sent to:

**Santa Cruz County Regional Transportation Commission
Attn: Yesenia Parra
1523 Pacific Avenue**

Santa Cruz, CA 95060-3911

(5) If GRANTEE or subcontractor fail to procure and maintain insurance required, SCCRTC may elect to so at the cost of GRANTEE or subcontractor, plus a 25% administrative fee.

(6) The fact that insurance is obtained by GRANTEE, or subcontractor or SCCRTC on behalf of GRANTEE or subcontractor shall not be deemed to release or diminish the liability of GRANTEE or subcontractor, including, without limitation, liability under the indemnity provisions of this agreement. Damages recoverable by SCCRTC shall not be limited by the amount of the required insurance coverage.

EXHIBIT C

SPPR Guidelines for Work on the ROW

Progressive Rail Inc.

Guidelines for Document Submission

Work taking place within the SPP Railroad Right of Way

Required Documents

Property Owner - SCCRTC Right of Entry Application

A Completed Right of Entry Application from the RTC is required for all work within the ROW and must be submitted to the Railroad prior to the Railroad permitting process.

Operating Railroad - Application for Right of Entry - Right of Way Release Form - Certificate of Insurance (COI)

The above-mentioned documents must be completed and submitted to our office for processing prior to any work taking place within the Railroad Right of Way. **This means work of any kind within 25' of the Rail.**

Application for Right of Entry (Attached)

The one-time Application Processing Fee is: \$500.00

This Application is to be completed and returned via email, as well as Mailing a hard copy via Courier with the payment.

Right of Way Release Form (Attached)

This is to be completed, including the projected date/dates of work, and returned via email.

This form is directly linked to the required Flagging Protection that is required to be provided by the Railroad.

The Flagging Charges will be assessed to the Contractor submitting the Right of Way Release Form.

Flagging for this project will be assessed at the rate of \$1,000.00/day; the Flagging Rate for Govt. Projects is \$500/day

The definition of a "Day": Normal Hours of Operation – 8 hours Total

Any Flagging work required outside of the Normal Hours of Operation (7:30am to 3:30pm) and/or more than 8 hours total will result in the assessment of a second "Day" Flagging charge.

Flagging is required when any work will take place within 25' of the nearest rail.

Flagging arrangements must be made via email with the Railroad Contact listed below, a minimum of 72 hours/3

Business days prior to the start of work planned within the Railroad Right of Way.

Note:

If there is a "General Contractor" for the project, that Contractor should be the one filling out and submitting the documents. All work presumed to take place within the Railroad Right of Way is to be outlined as "Scope of Work" in the Right of Entry Application. The Railroad Right of Way Release form is required for all projects. Each Contractor is required to submit one for each project (Date Specific) unless there is a General Contractor responsible for the entire Project and its Sub-Contractors.

However, a COI for the General Contractor and **ALL** Sub Contractors must be submitted. The COI is explained below.

- o **Certificate of Insurance (COI)**

A Certificate of Insurance is required from each Contractor/Entity who will be working within the Railroad Right of Way. The COI must state that a minimum of 2 Million Dollars in Liability Coverage is possessed by that Contractor as well as the GL policy should include the CG2417 or equivalent "Contractual Liability – Railroads". Progressive Rail, Inc. shall be the certificate holder on each COI. Each COI must be submitted via email.

Railroad Contact Information

Please submit emails to: jmcgovern@progressiverail.com and nshepard@progressiverail.com

Contact for Flagging:

Nikolas Shepard

General Manager of Crossings & Signals

Progressive Rail Inc.

Cell – 1(715)379-4686

Mailing Address:

ATTN: Jeannie McGovern

Progressive Rail Inc.

21778 Highview Ave.

Lakeville, MN 55044

**PROGRESSIVE RAIL INCORPORATED
RIGHT-OF-WAY RELEASE FORM**

In consideration of Progressive Rail Incorporated, hereinafter referred to as CARRIER, solely as an accommodation to me (us), permitting me (us) the undersigned permission to enter the right-of-way on or about (Date) _____, on CARRIER'S line of railroad at or near (Road name) _____ in (City) _____ (Mile Post _____), hereby waive all claims for, and release CARRIER from any damages or penalties by reason of my being injured or killed, or suffering loss of or damage to any of my property or effects, while on or attempting to board or alight from said train, or while on or about any of CARRIER'S premises or facilities, whether such injury, death, loss or damage be caused by the carelessness or negligence of CARRIER or of the officers, agents, servants or employees thereof, or otherwise; and I further agree to wholly indemnify and forever save harmless CARRIER, and the successors, assigns, officers, agents, servants and employees thereof, from and against any such claim; and I hereby agree that this release may be pleaded as a complete defense to any action for damages or penalties which may be brought, instituted or taken by me, my heirs, executor administrator, widow, child or children, against CARRIER or the successors, assigns, officers, agents, servants or employees thereof.

Flagging requests require a minimum three business (3) day notice prior to scheduling personnel. Contact Nik Shepard @ 1-715-379-4686 for all Flagging Requests.

The fee for the required Flagging protection will be assessed at the rate of:

\$500.00/Day (Government Work) - \$1,000.00/Day (All other Work) - "Day" is described as 8 hours. Work requiring Flagging of more than 8 Hours will be assessed as an additional Day. I have hereunto affixed my signature and agree to all charges incurred upon invoicing.

Dated: _____

Company: _____

Address : _____

Phone Number: _____

Printed Name: _____

Signature: _____

+++++

Approved: _____

Nik Shepard
General Manager – Crossings & Signals
Progressive Rail Inc.

APPLICATION – RIGHT OF ENTRY

Application Fee-\$500 (non-refundable)

Please allow 30-45 days for processing

1. Name of Licensee _____
(Exact Name of the Owner of the Utility)
State of Incorporation _____ ; if not incorporated, please list entity's legal status

2. Address, email, phone and Fax number of Licensee
Address _____
Email _____ Phone _____ Fax _____

3. Name, address and phone number of individual to whom agreement is to be mailed (if different than Item 2.) _____

4. Contact information for individual to contact in the event of questions.
Email _____ Phone _____ Fax _____

5. Project site location: (City, County and State)

6. Railroad site location information:
(Railroad Mile Post, Subdivision, or any other pertinent location detail.)

7. Project Timeline for use of Railroad Company's property:
Start Date: _____ Stop Date: _____

8. Will there be any activity or equipment within 25 feet of a Railroad track in connection with this property?
() No () Yes (If Yes, a Flagman will be required on site at your cost.)

9. Will there be any excavation involved?
() No () Yes (If Yes, include shoring plans within Railroad standards.)

10. Purpose of your request:
(This must be detailed & complete; attach engineering plans, shoring plans and any pertinent supporting details, including maps or prints.)

Project Sub-Contractor List

List all Sub-Contractors that will be working within the Railroad RoW as part of this project below:

1. Company Name: _____
Address: _____
Contact Name: _____ Number: _____

2. Company Name: _____
Address: _____
Contact Name: _____ Number: _____

3. Company Name: _____
Address: _____
Contact Name: _____ Number: _____

4. Company Name: _____
Address: _____
Contact Name: _____ Number: _____

5. Company Name: _____
Address: _____
Contact Name: _____ Number: _____

NOTE: Be sure to include an up to date copy of each Contractors Certificate of Insurance with your submission of this application.

Additional Fees and charges may be applicable to your request.
These charges cannot be determined until your project is approved.

Remit this Application for Right of Entry to:

PROGRESSIVE RAIL, INC
21778 HIGHVIEW AVENUE
LAKEVILLE, MN 55044
ATTN: Jeannie McGovern

CERTIFICATE OF COVERAGE		DATE (MM/DD/YYYY) 6/17/2019
PRODUCER Alliant Insurance Services, Inc. 100 Pine Street, 11th Floor San Francisco CA 94111		<p>THIS CERTIFICATE IS ISSUED AS A MATTER OF EVIDENCE ONLY AND CONFERES NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE MEMORANDUM(S) OF COVERAGE BELOW.</p> <p>THIS CERTIFICATE OF COVERAGE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING COVERAGE PROVIDER, AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.</p> <p>IMPORTANT: IF THE CERTIFICATE HOLDER IS AN ADDITIONAL COVERED PARTY, THE MEMORANDUM OF COVERAGE MUST BE ENDORSED. A STATEMENT ON THIS CERTIFICATE DOES NOT CONFER RIGHTS TO THE CERTIFICATE HOLDER IN LIEU OF SUCH ENDORSEMENT(S).</p> <p>IMPORTANT: IF SUBROGATION IS WAIVED, SUBJECT TO THE TERMS AND CONDITIONS OF THE MEMORANDUM(S) OF COVERAGE AN ENDORSEMENT MAY BE REQUIRED. A STATEMENT ON THE CERTIFICATE DOES NOT CONFER RIGHTS TO THE CERTIFICATE HOLDER IN LIEU OF SUCH ENDORSEMENT(S).</p>
NAMED COVERED PARTY MBASIA - City of Capitola 420 Capitola Avenue Capitola CA 95010		
PROGRAM AFFORDING COVERAGE		
A: Monterey Bay Area Self Ins.		
B:		
C:		

COVERAGES

THIS IS TO CERTIFY THAT THE COVERAGE IS AFFORDED TO THE ABOVE NAMED MEMBER, AS PROVIDED BY THE MEMORANDUM(S) OF COVERAGE, FOR THE PERIOD SHOWN BELOW, NOT WITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE COVERAGE AFFORDED BY THE PROGRAM DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS, AND CONDITIONS OF SUCH MEMORANDUM(S) OF COVERAGE. THE FOLLOWING COVERAGE IS IN EFFECT.


JPA LTR	TYPE OF COVERAGE	MEMORANDUM NUMBER	COVERAGE EFFECTIVE DATE (MM/DD/YY)	COVERAGE EXPIRATION DATE (MM/DD/YY)	LIMITS	
	GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> MEMOR-ANDUM <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC				EACH OCCURRENCE	\$
					FIRE DAMAGE (Any one fire)	\$
					MED EXPENSE (Any one person)	\$
					PERSONAL & ADV INJURY	\$
					GENERAL AGGREGATE	\$
					PRODUCTS-COMP/OP AGG	\$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Ea accident)	\$
	WORKERS' COMPENSATION AND EMPLOYERS LIABILITY ANY PROPRIETOR/PARTNER/ EXECUTIVE/OFFICER/MEMBER EXCLUDED? IF YES, DESCRIBED UNDER SPECIAL PROVISION BELOW				<input type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER	
					E.L. EACH ACCIDENT	\$
					E.L. DISEASE – EA EMPLOYEE	\$
					E.L. DISEASE – POLICY LIMIT	\$
A	OTHER Public Entity Liability	MBA1920CAP001	7/1/2019	7/1/2020	\$5,000,000 \$10,000	Per Occ Deductible
	OTHER					

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

RE: Right of Entry Agreement – Santa Cruz Branch Rail Line, effective 4/24/19 through 12/30/21. If required by written contract with the Named Covered Party, The Santa Cruz County Regional Transportation Commission (SCCRTC) and St. Paul & Pacific Railway, Progressive Rail, its officials, employees, agents and volunteers are covered as Additional Covered Parties as respects reconstruction of storm damaged bike path and shoulder on Park Ave.

Auto Liability is included.

Subject to policy terms, conditions and exclusions.

CERTIFICATE HOLDER	CANCELLATION
Santa Cruz County Regional Transportation Commission Attn: Luis Mendez 1523 Pacific Avenue Santa Cruz CA 95060-3911	SHOULD ANY OF THE ABOVE DESCRIBED MEMORANDUM(S) OF COVERAGE BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE MEMORANDUM(S) OF COVERAGE PROVISIONS.
	AUTHORIZED REPRESENTATIVE 

PART 4: SPECIAL PROVISIONS

SECTION 13

PROJECT SPECIFIC REQUIREMENTS

13.01 REQUIRED FEDERAL-AID CONTRACT LANGUAGE
 (For Local Assistance Construction Projects)

The following language must be incorporated into all Local Assistance Federal-aid construction contracts.
 The following language, with minor edits, was taken from the Code of Federal Regulations.

MAINTAIN RECORDS AND SUBMIT REPORTS DOCUMENTING YOUR PERFORMANCE UNDER THIS SECTION

1.	DISADVANTAGED BUSINESS ENTERPRISES (DBE)	SP-2
	A. DBE COMMITMENT SUBMITTAL	SP-2
	B. GOOD FAITH EFFORTS SUBMITTAL.....	SP-3
	C. EXHIBIT 15-G - CONSTRUCTION CONTRACT DBE COMMITMENT.....	SP-3
	D. SUBCONTRACTOR AND DISADVANTAGED BUSINESS ENTERPRISE RECORDS.....	SP-4
	E. PERFORMANCE OF DISADVANTAGED BUSINESS ENTERPRISES	SP-4
2.	BID OPENING	SP-5
3.	BID RIGGING.....	SP-5
4.	CONTRACT AWARD.....	SP-5
5.	CONTRACTOR LICENSE	SP-5
6.	CHANGED CONDITIONS.....	SP-5
	A. DIFFERING SITE CONDITIONS.....	SP-5
	B. SUSPENSIONS OF WORK ORDERED BY THE ENGINEER	SP-6
	C. SIGNIFICANT CHANGES IN THE CHARACTER OF WORK.....	SP-6
7.	BEGINNING OF WORK, TIME OF COMPLETION AND LIQUIDATED DAMAGES.....	SP-6
8.	BUY AMERICA.....	SP-7
9.	QUALITY ASSURANCE	SP-7
10.	PROMPT PAYMENT OF FUNDS WITHHELD TO SUBCONTRACTORS	SP-7
11.	FORM FHWA-1273 REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONTRACTS	SP-7
12.	FEMALE AND MINORITY GOALS	SP-19
13.	TITLE VI ASSURANCES.....	SP-20
14.	USE OF UNITED STATES-FLAG VESSELS (CARGO PREFERENCE ACT).....	SP-21
15.	FEDERAL TRAINEE PROGRAM.....	SP-22
	EXHIBIT 15-G CONSTRUCTION CONTRACT DBE COMMITMENT.....	SP-24
	EXHIBIT 15-H: PROPOSER/CONTRACTOR GOOD FAITH EFFORTS.....	SP-26
	EXHIBIT 12-B: BIDDER’S LIST OF SUBCONTRACTORS (DBE AND NON-DBE) PART 1.....	SP-29
	EXHIBIT 12-B: BIDDER’S LIST OF SUBCONTRACTORS (DBE AND NON-DBE) PART 2.....	SP-30
	FEDERAL WAGE RATES.....	SP-31
	RELATIONS WITH RAILROAD.....	SP-110

1. DISADVANTAGED BUSINESS ENTERPRISES (DBE)

Under 49CFR26.13(b):

The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49CFR26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

Take necessary and reasonable steps to ensure that DBEs have opportunity to participate in the contract (49CFR26).

To ensure equal participation of DBEs provided in 49CFR26.5, the Agency shows a contract goal for DBEs.

Make work available to DBEs and select work parts consistent with available DBE subcontractors and suppliers.

Meet the DBE goal shown elsewhere in these special provisions or demonstrate that you made adequate good faith efforts to meet this goal.

It is your responsibility to verify that the DBE firm is certified as DBE at date of bid opening. For a list of DBEs certified by the California Unified Certification Program, go to: http://www.dot.ca.gov/hq/bep/find_certified.htm.

All DBE participation will count toward the California Department of Transportation's federally mandated statewide overall DBE goal.

Credit for materials or supplies you purchase from DBEs counts towards the goal in the following manner:

- 100 percent counts if the materials or supplies are obtained from a DBE manufacturer.
- 60 percent counts if the materials or supplies are obtained from a DBE regular dealer.
- Only fees, commissions, and charges for assistance in the procurement and delivery of materials or supplies count if obtained from a DBE that is neither a manufacturer nor regular dealer. 49CFR26.55 defines "manufacturer" and "regular dealer."

You receive credit towards the goal if you employ a DBE trucking company that performs a commercially useful function as defined in 49CFR26.55(d)(1) as follows:

- The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract, and there cannot be a contrived arrangement for the purpose of meeting DBE goals.
- The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.
- The DBE receives credit for the total value of the transportation services it provides on the Contract using trucks it owns, insures, and operates using drivers it employs.
- The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the Contract.
- The DBE may lease trucks without drivers from a non-DBE truck leasing company. If the DBE leases trucks from a non-DBE truck leasing company and uses its own employees as drivers, it is entitled to credit for the total value of these hauling services.
- A lease must indicate that the DBE has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.

a. DBE Commitment Submittal

Submit the Exhibit 15-G *Construction Contract DBE Commitment*, included in the Bid book. If the form is not submitted with the bid, remove the form from the Bid book before submitting your bid.

If the DBE Commitment form is not submitted with the bid, all bidders must complete and submit Exhibit 15-G to the Agency. The DBE Commitment form must be received by the Agency within five (5) days of bid opening.

Submit written confirmation from each DBE stating that it is participating in the contract. Include confirmation with the DBE Commitment form. A copy of a DBE's quote will serve as written confirmation that the DBE is participating in the contract.

If you do not submit the DBE Commitment form within the specified time, the Agency will find your bid nonresponsive.

b. Good Faith Efforts Submittal

Exhibit 15-H: Proposer/Contractor Good Faith Efforts is due to the local agency within five (5) days of bid opening. Days means calendar days. In computing any period of time described in this part, the day from which the period begins to run is not counted, and when the last day of the period is a Saturday, Sunday, or federal holiday, the period extends to the next day that is not a Saturday, Sunday, or federal holiday. Similarly, in circumstances where the recipient's offices are closed for all or part of the last day, the period extends to the next on which the agency is open. Only good faith efforts directed towards obtaining participation and meeting or exceeding the DBE contract goal will be considered.

Submittal of good faith efforts documentation within the specified time protects your eligibility for award of the contract in the event the Agency finds that the DBE goal has not been met.

Good faith efforts documentation must include the following information and supporting documents, as necessary:

1. Items of work you have made available to DBE firms. Identify those items of work you might otherwise perform with your own forces and those items that have been broken down into economically feasible units to facilitate DBE participation. For each item listed, show the dollar value and percentage of the total contract. It is your responsibility to demonstrate that sufficient work to meet the goal was made available to DBE firms.
2. Names of certified DBEs and dates on which they were solicited to bid on the project. Include the items of work offered. Describe the methods used for following up initial solicitations to determine with certainty if the DBEs were interested, and the dates of the follow-up. Attach supporting documents such as copies of letters, memos, facsimiles sent, telephone logs, telephone billing statements, and other evidence of solicitation. You are reminded to solicit certified DBEs through all reasonable and available means and provide sufficient time to allow DBEs to respond.
3. Name of selected firm and its status as a DBE for each item of work made available. Include name, address, and telephone number of each DBE that provided a quote and their price quote. If the firm selected for the item is not a DBE, provide the reasons for the selection.
4. Name and date of each publication in which you requested DBE participation for the project. Attach copies of the published advertisements.
5. Names of agencies and dates on which they were contacted to provide assistance in contacting, recruiting, and using DBE firms. If the agencies were contacted in writing, provide copies of supporting documents.
6. List of efforts made to provide interested DBEs with adequate information about the plans, specifications, and requirements of the contract to assist them in responding to a solicitation. If you have provided information, identify the name of the DBE assisted, the nature of the information provided, and date of contact. Provide copies of supporting documents, as appropriate.
7. List of efforts made to assist interested DBEs in obtaining bonding, lines of credit, insurance, necessary equipment, supplies, and materials, excluding supplies and equipment that the DBE subcontractor purchases or leases from the prime contractor or its affiliate. If such assistance is provided by you, identify the name of the DBE assisted, nature of the assistance offered, and date assistance was provided. Provide copies of supporting documents, as appropriate.
8. Any additional data to support demonstration of good faith efforts.

The Agency may consider DBE commitments from other bidders when determining whether the low bidder made good faith efforts to meet or exceed the DBE goal.

c. Exhibit 15-G - Construction Contract DBE Commitment

Complete and sign Exhibit 15-G *Construction Contract DBE Commitment* included in the contract documents regardless of whether DBE participation is reported.

Provide written confirmation from each DBE that the DBE is participating in the Contract. A copy of a DBE's quote serves as written confirmation. If a DBE is participating as a joint venture partner, please submit a copy of the joint venture agreement.

d. Subcontractor and Disadvantaged Business Enterprise Records

Use each DBE subcontractor as listed on Exhibit 12-B *Bidder's List of Subcontractors (DBE and Non-DBE)*, and Exhibit 15-G *Construction Contract DBE Commitment* form unless you receive authorization for a substitution.

The Agency requests the Contractor to:

1. Notify the Resident Engineer or Inspector of any changes to its anticipated DBE participation
2. Provide this notification before starting the affected work
3. Maintain records including:
 - Name and business address of each 1st-tier subcontractor
 - Name and business address of each DBE subcontractor, DBE vendor, and DBE trucking company, regardless of tier
 - Date of payment and total amount paid to each business (see Exhibit 9-F: Monthly Disadvantaged Business Enterprise Payment)

If you are a DBE contractor, include the date of work performed by your own forces and the corresponding value of the work.

Before the 15th of each month, submit a Monthly DBE Trucking Verification form.

If a DBE is decertified before completing its work, the DBE must notify you in writing of the decertification date. If a business becomes a certified DBE before completing its work, the business must notify you in writing of the certification date. Submit the notifications. On work completion, complete a Disadvantaged Business Enterprises (DBE) Certification Status Change, Exhibit 17-O, form. Submit the form within 30 days of contract acceptance.

Upon work completion, complete Exhibit 17-F *Final Report – Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors*. Submit it within 90 days of contract acceptance. The Agency will withhold \$10,000 until the form is submitted. The Agency releases the withhold upon submission of the completed form.

e. Performance of Disadvantaged Business Enterprises

DBEs must perform work or supply materials as listed in the Exhibit 15-G *Construction Contract DBE Commitment* form, included in the Bid.

Do not terminate or substitute a listed DBE for convenience and perform the work with your own forces or obtain materials from other sources without authorization from the Agency.

The Agency authorizes a request to use other forces or sources of materials if the bidder shows any of the following justifications:

1. Listed DBE fails or refuses to execute a written contract based on plans and specifications for the project.
2. You stipulated that a bond is a condition of executing the subcontract and the listed DBE fails to meet your bond requirements.
3. Work requires a contractor's license and listed DBE does not have a valid license under Contractors License Law.
4. Listed DBE fails or refuses to perform the work or furnish the listed materials.
5. Listed DBE's work is unsatisfactory and not in compliance with the contract.
6. Listed DBE is ineligible to work on the project because of suspension or debarment.
7. Listed DBE becomes bankrupt or insolvent.
8. Listed DBE voluntarily withdraws with written notice from the Contract

9. Listed DBE is ineligible to receive credit for the type of work required.
10. Listed DBE owner dies or becomes disabled resulting in the inability to perform the work on the Contract.
11. Agency determines other documented good cause.

Notify the original DBE of your intent to use other forces or material sources and provide the reasons. Provide the DBE with 5 days to respond to your notice and advise you and the Agency of the reasons why the use of other forces or sources of materials should not occur. Your request to use other forces or material sources must include:

1. One or more of the reasons listed in the preceding paragraph.
2. Notices from you to the DBE regarding the request.
3. Notices from the DBEs to you regarding the request.

If a listed DBE is terminated or substituted, you must make good faith efforts to find another DBE to substitute for the original DBE. The substitute DBE must perform at least the same amount of work as the original DBE under the contract to the extent needed to meet or exceed the DBE goal.

The contractor or consultant shall utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless the contractor or subconsultant obtains the agency's written consent. Unless the agency's consent is provided, the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE on the *Exhibit 15-G: Construction Contract DBE Commitment*.

2. **BID OPENING** The Agency publicly opens and reads bids at the time and place shown on the *Notice to Contractors*.
3. **BID RIGGING** The U.S. Department of Transportation (DOT) provides a toll-free hotline to report bid rigging activities. Use the hotline to report bid rigging, bidder collusion, and other fraudulent activities. The hotline number is (800) 424-9071. The service is available 24 hours 7 days a week and is confidential and anonymous. The hotline is part of the DOT's effort to identify and investigate highway construction contract fraud and abuse and is operated under the direction of the DOT Inspector General.
4. **CONTRACT AWARD** If the Agency awards the contract, the award is made to the lowest responsible and responsive bidder.
5. **CONTRACTOR LICENSE**

The Contractor must be properly licensed as a contractor from contract award through Contract acceptance (Public Contract Code § 10164).

6. **CHANGED CONDITIONS**

- a. *Differing Site Conditions*

1. During the progress of the work, if subsurface or latent physical conditions are encountered at the site differing materially from those indicated in the contract or if unknown physical conditions of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in the work provided for in the contract, are encountered at the site, the party discovering such conditions shall promptly notify the other party in writing of the specific differing conditions before the site is disturbed and before the affected work is performed.
 2. Upon written notification, the engineer will investigate the conditions, and if it is determined that the conditions materially differ and cause an increase or decrease in the cost or time required for the performance of any work under the contract, an adjustment, excluding anticipated profits, will be made and the contract modified in writing accordingly. The engineer will notify the contractor of the determination whether or not an adjustment of the contract is warranted.
 3. No contract adjustment which results in a benefit to the contractor will be allowed unless the contractor has provided the required written notice.

4. No contract adjustment will be allowed under this clause for any effects caused on unchanged work. (This provision may be omitted by the Local Agency, at their option.)

b. Suspensions of Work Ordered by the Engineer

1. If the performance of all or any portion of the work is suspended or delayed by the engineer in writing for an unreasonable period of time (not originally anticipated, customary, or inherent to the construction industry) and the contractor believes that additional compensation and/or contract time is due as a result of such suspension or delay, the contractor shall submit to the engineer in writing a request for adjustment within 7 calendar days of receipt of the notice to resume work. The request shall set forth the reasons and support for such adjustment.
2. Upon receipt, the engineer will evaluate the contractor's request. If the engineer agrees that the cost and/or time required for the performance of the contract has increased as a result of such suspension and the suspension was caused by conditions beyond the control of and not the fault of the contractor, its suppliers, or subcontractors at any approved tier, and not caused by weather, the engineer will make an adjustment (excluding profit) and modify the contract in writing accordingly. The contractor will be notified of the engineer's determination whether or not an adjustment of the contract is warranted.
3. No contract adjustment will be allowed unless the contractor has submitted the request for adjustment within the time prescribed.
4. No contract adjustment will be allowed under this clause to the extent that performance would have been suspended or delayed by any other cause, or for which an adjustment is provided or excluded under any other term or condition of this contract.

c. Significant Changes in the Character of Work

1. The engineer reserves the right to make, in writing, at any time during the work, such changes in quantities and such alterations in the work as are necessary to satisfactorily complete the project. Such changes in quantities and alterations shall not invalidate the contract nor release the surety, and the contractor agrees to perform the work as altered.
2. If the alterations or changes in quantities significantly change the character of the work under the contract, whether such alterations or changes are in themselves significant changes to the character of the work or by affecting other work cause such other work to become significantly different in character, an adjustment, excluding anticipated profit, will be made to the contract. The basis for the adjustment shall be agreed upon prior to the performance of the work. If a basis cannot be agreed upon, then an adjustment will be made either for or against the contractor in such amount as the engineer may determine to be fair and equitable.
3. If the alterations or changes in quantities do not significantly change the character of the work to be performed under the contract, the altered work will be paid for as provided elsewhere in the contract.
4. The term “significant change” shall be construed to apply only to the following circumstances:
 - When the character of the work as altered differs materially in kind or nature from that involved or included in the original proposed construction; or
 - When a major item of work, as defined elsewhere in the contract, is increased in excess of 125 percent or decreased below 75 percent of the original contract quantity. Any allowance for an increase in quantity shall apply only to that portion in excess of 125 percent of original contract item quantity, or in case of a decrease below 75 percent, to the actual amount of work performed.

7. BEGINNING OF WORK, TIME OF COMPLETION AND LIQUIDATED DAMAGES

The Contractor shall begin work within 15 calendar days after the issuance of the Notice to Proceed.

This work shall be diligently prosecuted to completion before the expiration of 30 WORKING DAYS beginning on the fifteenth calendar day after the date shown on the Notice to Proceed.

The Contractor shall pay to the City of Capitola _____ the sum of \$3,200 per day, for each and every calendar days' delay in finishing the work in excess of the number of working days prescribed above.

8. BUY AMERICA

Furnish steel and iron materials to be incorporated into the work with certificates of compliance and certified mill test reports. Mill test reports must indicate where the steel and iron were melted and manufactured. Steel and iron materials must be produced in the U.S. except:

1. Foreign pig iron and processed, pelletized, and reduced iron ore may be used in the domestic production of the steel and iron materials [60 Fed Reg 15478 (03/24/1995)];
2. If the total combined cost of the materials does not exceed the greater of 0.1 percent of the total bid or \$2,500, materials produced outside the U.S. may be used.

Production includes:

1. Processing steel and iron materials, including smelting or other processes that alter the physical form or shape (such as rolling, extruding, machining, bending, grinding, and drilling) or chemical composition;
2. Coating application, including epoxy coating, galvanizing, and painting, that protects or enhances the value of steel and iron materials.

9. QUALITY ASSURANCE

The Agency uses a Quality Assurance Program (QAP) to ensure a material is produced to comply with the Contract.

You may examine the records and reports of tests the Agency performs if they are available at the job site.

Schedule work to allow time for QAP.

10. PROMPT PAYMENT OF FUNDS WITHHELD TO SUBCONTRACTORS

The agency may hold retainage from the prime contractor and shall make prompt and regular incremental acceptances of portions, as determined by the agency, of the contract work, and pay retainage to the prime contractor based on these acceptances. The prime contractor, or subcontractor, shall return all monies withheld in retention from a subcontractor within seven (7) days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the agency, unless as agreed to in writing by the prime contractor and subcontractor, pursuant to Section 7108.5 of the Business and Professions Code. Any violation of this provision shall subject the violating prime contractor or subcontractor to the penalties, sanctions and other remedies specified in Section this code. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to the prime contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the prime contractor, deficient subcontract performance, or noncompliance by a subcontractor.

11. FORM FHWA-1273 REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONTRACTS

(Excluding ATTACHMENT A - EMPLOYMENT AND MATERIALS PREFERENCE FOR APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS ROAD CONTRACTS)

[The following 10 pages must be physically inserted into the contract without modification.]

**REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS**

- I. General
- II. Nondiscrimination
- III. No segregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Compliance with Government wide Suspension and Debarment Requirements
- XI. Certification Regarding Use of Contract Funds for Lobbying

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

II. NONDISCRIMINATION

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. Equal Employment Opportunity: Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

- a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.
- b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. EEO Officer: The contractor will designate and make known to the contracting officers and EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

- a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.
- b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.
- c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.
- d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.
- e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

- a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.
- b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

- c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

- a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.
- b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.
- c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.
- d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

- a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.
- b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).
- c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.
- d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

- a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.
- b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.
- c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.
- d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

- a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.
- b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurance Required by 49 CFR 26.13(b):

- a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.
- b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

- a. The records kept by the contractor shall document the following:
 - (1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;
 - (2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and
 - (3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women.
- b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on [Form FHWA-1391](#). The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1. d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1. b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. (1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

- (i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
 - (ii) The classification is utilized in the area by the construction industry; and
 - (iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
- (2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
- (3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
- (4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1. b. (2) or 1. b. (3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.
- c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.
- d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

2. Withholding

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b. (1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and

current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency.

- (2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:
 - (i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;
 - (ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;
 - (iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.
 - (3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.
 - (4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.
- c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

6. Subcontracts. The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

7. Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

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8. Compliance with Davis-Bacon and Related Act requirements.

All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility.

- a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
- b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
- c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

3. Withholding for unpaid wages and liquidated damages. The FHWA or the contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

- 1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).
 - a. The term "perform work with its own organization" refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:
 - (1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
 - (2) the prime contractor remains responsible for the quality of the work of the leased employees;
 - (3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
 - (4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.
 - b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.
3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.
4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.
5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.
2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).
3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.
2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

FHWA-1273 -- Revised May 1, 2012

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200.

1. Instructions for Certification – First Tier Participants:

- a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.
- b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.
- c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.
- d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).
- f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
- g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered

transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

- h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.
- i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

* * *

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

- a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:
 - (1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;
 - (2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - (3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and
 - (4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
- b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200)

- a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.
- b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
- c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.
- d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).
- e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
- f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.
- g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website

(<https://www.epls.gov/>), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

- 1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.
- 2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 (49 CFR 20).

- 1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:
 - a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
 - b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed information of participant is not required to exceed that which is \$100,000 and that all such recipients shall certify and disclose accordingly.

12. FEMALE AND MINORITY GOALS

To comply with Section II, "Nondiscrimination," of "Required Contract Provisions Federal-Aid Construction Contracts," the following are for female and minority utilization goals for Federal-aid construction contracts and subcontracts that exceed \$10,000:

The nationwide goal for female utilization is 6.9 percent.

The goals for minority utilization [45 Fed Reg 65984 (10/3/1980)] are as follows:

MINORITY UTILIZATION GOALS

Economic Area		Goal (Percent)
174	Redding CA: Non-SMSA (Standard Metropolitan Statistical Area) Counties: CA Lassen; CA Modoc; CA Plumas; CA Shasta; CA Siskiyou; CA Tehama	6.8
175	Eureka, CA Non-SMSA Counties: CA Del Norte; CA Humboldt; CA Trinity	6.6
176	San Francisco-Oakland-San Jose, CA: SMSA Counties: 7120 Salinas-Seaside-Monterey, CA CA Monterey	28.9
	7360 San Francisco-Oakland CA Alameda; CA Contra Costa; CA Marin; CA San Francisco; CA San Mateo	25.6
	7400 San Jose, CA CA Santa Clara, CA	19.6
	7485 Santa Cruz, CA CA Santa Cruz	14.9
	7500 Santa Rosa CA Sonoma	9.1
	8720 Vallejo-Fairfield-Napa, CA CA Napa; CA Solano	17.1
	Non-SMSA Counties: CA Lake; CA Mendocino; CA San Benito	23.2
177	Sacramento, CA: SMSA Counties: 6920 Sacramento, CA CA Placer; CA Sacramento; CA Yolo	16.1
	Non-SMSA Counties CA Butte; CA Colusa; CA El Dorado; CA Glenn; CA Nevada; CA Sierra; CA Sutter; CA Yuba	14.3
178	Stockton-Modesto, CA: SMSA Counties: 5170 Modesto, CA CA Stanislaus	12.3
	8120 Stockton, CA CA San Joaquin	24.3
	Non-SMSA Counties CA Alpine; CA Amador; CA Calaveras; CA Mariposa; CA Merced; CA Tuolumne	19.8
179	Fresno-Bakersfield, CA SMSA Counties: 0680 Bakersfield, CA CA Kern	19.1
	2840 Fresno, CA	26.1

	CA Fresno Non-SMSA Counties: CA Kings; CA Madera; CA Tulare	23.6
180	Los Angeles, CA: SMSA Counties: 0360 Anaheim-Santa Ana-Garden Grove, CA CA Orange	11.9
	4480 Los Angeles-Long Beach, CA CA Los Angeles	28.3
	6000 Oxnard-Simi Valley-Ventura, CA CA Ventura	21.5
	6780 Riverside-San Bernardino-Ontario, CA CA Riverside; CA San Bernardino	19.0
	7480 Santa Barbara-Santa Maria-Lompoc, CA CA Santa Barbara	19.7
	Non-SMSA Counties CA Inyo; CA Mono; CA San Luis Obispo	24.6
	181	San Diego, CA: SMSA Counties 7320 San Diego, CA CA San Diego
	Non-SMSA Counties CA Imperial	18.2

For the last full week July during which work is performed under the contract, you and each non material-supplier subcontractor with a subcontract of \$10,000 or more must complete Form FHWA PR-1391 (Appendix C to 23 CFR 230). Submit the forms by August 15.

13. TITLE VI ASSURANCES

During the performance of this Agreement, the contractor, for itself, its assignees and successors in interest (hereinafter collectively referred to as CONTRACTOR) agrees as follows:

- (1) Compliance with Regulations: CONTRACTOR shall comply with the regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the REGULATIONS), which are herein incorporated by reference and made a part of this agreement.
- (2) Nondiscrimination: CONTRACTOR, with regard to the work performed by it during the AGREEMENT, shall not discriminate on the grounds of race, color, sex, national origin, religion, age, or disability in the selection and retention of sub-applicants, including procurements of materials and leases of equipment. CONTRACTOR shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the agreement covers a program set forth in Appendix B of the Regulations.
- (3) Solicitations for Sub-agreements, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by CONTRACTOR for work to be performed under a Sub-agreement, including procurements of materials or leases of equipment, each potential sub-applicant or supplier shall be notified by CONTRACTOR of the CONTRACTOR’S obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
- (4) Information and Reports: CONTRACTOR shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the California Department of Transportation or FHWA to be pertinent to ascertain compliance with such Regulations or directives. Where any information

required of CONTRACTOR is in the exclusive possession of another who fails or refuses to furnish this information, CONTRACTOR shall so certify to the California Department of Transportation or the FHWA as appropriate, and shall set forth what efforts CONTRACTOR has made to obtain the information.

- (5) Sanctions for Noncompliance: In the event of CONTRACTOR's noncompliance with the nondiscrimination provisions of this agreement, the California Department of Transportation shall impose such agreement sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
- (a) withholding of payments to CONTRACTOR under the Agreement within a reasonable period of time, not to exceed 90 days; and/or
 - (b) cancellation, termination or suspension of the Agreement, in whole or in part.
- (6) Incorporation of Provisions: CONTRACTOR shall include the provisions of paragraphs (1) through (6) in every sub-agreement, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

CONTRACTOR shall take such action with respect to any sub-agreement or procurement as the California Department of Transportation or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance, provided, however, that, in the event CONTRACTOR becomes involved in, or is threatened with, litigation with a sub-applicant or supplier as a result of such direction, CONTRACTOR may request the California Department of Transportation enter into such litigation to protect the interests of the State, and, in addition, CONTRACTOR may request the United States to enter into such litigation to protect the interests of the United States.

14. USE OF UNITED STATES-FLAG VESSELS (CARGO PREFERENCE ACT)

The CONTRACTOR agrees-

1. To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carries, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels.
2. To Furnish within 20 days following the date of loading for shipments originating within the United State or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (1) of this section to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590.
3. To insert the substance of the provisions of this clause in all subcontracts issued pursuant to this contract.

Federal Trainee Program Special Provisions
(to be used when applicable)

15. FEDERAL TRAINEE PROGRAM – NOT APPLICABLE TO THIS PROEJCT

~~For the Federal training program, the number of trainees or apprentices is 0.~~

~~This section applies if a number of trainees or apprentices is specified in the special provisions.~~

~~As part of your equal opportunity affirmative action program, provide on the job training to develop full journeymen in the types of trades or job classifications involved.~~

~~You have primary responsibility for meeting this training requirement.~~

~~If you subcontract a contract part, determine how many trainees or apprentices are to be trained by the subcontractor.~~

~~Include these training requirements in your subcontract.~~

~~Where feasible, 25 percent of apprentices or trainees in each occupation must be in their 1st year of apprenticeship or training.~~

~~Distribute the number of apprentices or trainees among the work classifications on the basis of your needs and the availability of journeymen in the various classifications within a reasonable recruitment area.~~

~~Before starting work, submit to the City/County of _____:~~

- ~~1. Number of apprentices or trainees to be trained for each classification~~
- ~~2. Training program to be used~~
- ~~3. Training starting date for each classification~~

~~Obtain the City/County's of _____ approval for this submitted information before you start work. The City/County of _____ credits you for each apprentice or trainee you employ on the work who is currently enrolled or becomes enrolled in an approved program.~~

~~The primary objective of this section is to train and upgrade minorities and women toward journeyman status. Make every effort to enroll minority and women apprentices or trainees, such as conducting systematic and direct recruitment through public and private sources likely to yield minority and women apprentices or trainees, to the extent they are available within a reasonable recruitment area. Show that you have made the efforts. In making these efforts, do not discriminate against any applicant for training.~~

~~Do not employ as an apprentice or trainee an employee:~~

- ~~1. In any classification in which the employee has successfully completed a training course leading to journeyman status or in which the employee has been employed as a journeyman~~
- ~~2. Who is not registered in a program approved by the US Department of Labor, Bureau of Apprenticeship and Training~~

~~Ask the employee if the employee has successfully completed a training course leading to journeyman status or has been employed as a journeyman. Your records must show the employee's answers to the questions.~~

~~In your training program, establish the minimum length and training type for each classification. The City/County of _____ and FHWA approves a program if one of the following is met:~~

- ~~1. It is calculated to:
 - ~~▪ Meet the your equal employment opportunity responsibilities~~
 - ~~▪ Qualify the average apprentice or trainee for journeyman status in the classification involved by the end of the training period~~~~
- ~~2. It is registered with the U.S. Department of Labor, Bureau of Apprenticeship and Training, and it is administered in a way consistent with the equal employment responsibilities of Federal aid highway construction contracts~~

~~Obtain the State's approval for your training program before you start work involving the classification covered by the program.~~

~~Provide training in the construction crafts, not in clerk typist or secretarial type positions. Training is allowed in lower level management positions such as office engineers, estimators, and timekeepers if the training is oriented toward construction applications. Training is allowed in the laborer classification if significant and meaningful training is provided and approved by the division office. Off site training is allowed if the training is an integral part of an approved training program and does not make up a significant part of the overall training.~~

~~The City/County of _____ reimburses you 80 cents per hour of training given an employee on this contract under an approved training program:~~

- ~~1. For on site training~~
- ~~2. For off-site training if the apprentice or trainee is currently employed on a Federal-aid project and you do at least one of the following:~~
 - ~~▪ Contribute to the cost of the training~~
 - ~~▪ Provide the instruction to the apprentice or trainee~~
 - ~~▪ Pay the apprentice's or trainee's wages during the off-site training period~~
- ~~3. If you comply this section:~~

~~Each apprentice or trainee must:~~

- ~~1. Begin training on the project as soon as feasible after the start of work involving the apprentice's or trainee's skill~~
- ~~2. Remain on the project as long as training opportunities exist in the apprentice's or trainee's work classification or until the apprentice or trainee has completed the training program~~

~~Furnish the apprentice or trainee:~~

- ~~1. Copy of the program you will comply with in providing the training~~

Exhibit 15-G Construction Contract DBE Commitment

1. Local Agency: _____ 2. Contract DBE Goal: _____
 3. Project Description: _____
 4. Project Location: _____
 5. Bidder's Name: _____ 6. Prime Certified DBE: 7. Bid Amount: _____
 8. Total Dollar Amount for **ALL** Subcontractors: _____ 9. Total Number of **ALL** Subcontractors: _____

10. Bid Item Number	11. Description of Work, Service, or Materials Supplied	12. DBE Certification Number	13. DBE Contact Information (Must be certified on the date bids are opened)	14. DBE Dollar Amount
Local Agency to Complete this Section upon Execution of Award			15. TOTAL CLAIMED DBE PARTICIPATION	\$
21. Local Agency Contract Number: _____ 22. Federal-Aid Project Number: _____ 23. Bid Opening Date: _____ 24. Contract Award Date: _____ 25. Award Amount: _____				%
Local Agency certifies that all DBE certifications are valid and information on this form is complete and accurate. 26. Local Agency Representative's Signature _____ 27. Date _____ 28. Local Agency Representative's Name _____ 29. Phone _____ 30. Local Agency Representative's Title _____			IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Names of the First Tier DBE Subcontractors and their respective item(s) of work listed above must be consistent, where applicable with the names and items of the work in the "Subcontractor List" submitted with your bid. Written confirmation of each listed DBE is required. 16. Preparer's Signature _____ 17. Date _____ 18. Preparer's Name _____ 19. Phone _____ 20. Preparer's Title _____	

DISTRIBUTION: 1. Original – Local Agency
 2. Copy – Caltrans District Local Assistance Engineer (DLAE). Failure to submit to DLAE within 30 days of contract execution may result in de-obligation of federal funds on contract.
 3. Include additional copy with award package.

ADA Notice: For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-6410 or TDD (916) 654-3880 or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

INSTRUCTIONS – CONSTRUCTION CONTRACT DBE COMMITMENT

CONTRACTOR SECTION

- 1. Local Agency** - Enter the name of the local agency that is administering the contract.
- 2. Contract DBE Goal** - Enter the contract DBE goal percentage as it appears on the project advertisement.
- 3. Project Location** - Enter the project location(s) as it appears on the project advertisement.
- 4. Project Description** - Enter the project description as it appears on the project advertisement (Bridge Rehab, Seismic Rehab, Overlay, Widening, etc).
- 5. Bidder's Name** - Enter the contractor's firm name.
- 6. Prime Certified DBE** - Check box if prime contractor is a certified DBE.
- 7. Bid Amount** - Enter the total contract bid dollar amount for the prime contractor.
- 8. Total Dollar Amount for ALL Subcontractors** – Enter the total dollar amount for all subcontracted contractors. SUM = (DBEs + all Non-DBEs). Do not include the prime contractor information in this count.
- 9. Total number of ALL subcontractors** – Enter the total number of all subcontracted contractors. SUM = (DBEs + all Non-DBEs). Do not include the prime contractor information in this count.
- 10. Bid Item Number** - Enter bid item number for work, services, or materials supplied to be provided.
- 11. Description of Work, Services, or Materials Supplied** - Enter description of work, services, or materials to be provided. Indicate all work to be performed by DBEs including work performed by the prime contractor's own forces, if the prime is a DBE. If 100% of the item is not to be performed or furnished by the DBE, describe the exact portion to be performed or furnished by the DBE. See LAPM Chapter 9 to determine how to count the participation of DBE firms.
- 12. DBE Certification Number** - Enter the DBE's Certification Identification Number. All DBEs must be certified on the date bids are opened.
- 13. DBE Contact Information** - Enter the name, address, and phone number of all DBE subcontracted contractors. Also, enter the prime contractor's name and phone number, if the prime is a DBE.
- 14. DBE Dollar Amount** - Enter the subcontracted dollar amount of the work to be performed or service to be provided. Include the prime contractor if the prime is a DBE. See LAPM Chapter 9 for how to count full/partial participation.
- 15. Total Claimed DBE Participation** - \$: Enter the total dollar amounts entered in the "DBE Dollar Amount" column. %: Enter the total DBE participation claimed ("Total Claimed DBE Participation Dollars" divided by item "Bid Amount"). If the total % claimed is less than item "Contract DBE Goal," an adequately documented Good Faith Effort (GFE) is required (see Exhibit 15-H DBE Information - Good Faith Efforts of the LAPM).
- 16. Preparer's Signature** - The person completing the DBE commitment form on behalf of the contractor's firm must sign their name.
- 17. Date** - Enter the date the DBE commitment form is signed by the contractor's preparer.
- 18. Preparer's Name** - Enter the name of the person preparing and signing the contractor's DBE commitment form.
- 19. Phone** - Enter the area code and phone number of the person signing the contractor's DBE commitment form.
- 20. Preparer's Title** - Enter the position/title of the person signing the contractor's DBE commitment form.

LOCAL AGENCY SECTION

- 21. Local Agency Contract Number** - Enter the Local Agency contract number or identifier.
- 22. Federal-Aid Project Number** - Enter the Federal-Aid Project Number(s).
- 23. Bid Opening Date** - Enter the date contract bids were opened.
- 24. Contract Award Date** - Enter the date the contract was executed.
- 25. Award Amount** – Enter the contract award amount as stated in the executed contract.
- 26. Local Agency Representative's Signature** - The person completing this section of the form for the Local Agency must sign their name to certify that the information in this and the Contractor Section of this form is complete and accurate.
- 27. Date** - Enter the date the DBE commitment form is signed by the Local Agency Representative.
- 28. Local Agency Representative's Name** - Enter the name of the Local Agency Representative certifying the contractor's DBE commitment form.
- 29. Phone** - Enter the area code and phone number of the person signing the contractor's DBE commitment form.
- 30. Local Agency Representative Title** - Enter the position/title of the Local Agency Representative certifying the contractor's DBE commitment form.

Exhibit 15-H: Proposer/Contractor Good Faith Efforts

Federal-aid Project No(s). ER-32L0(346) Bid Opening Date April 29, 2020

The City of Capitola established a Disadvantaged Business Enterprise (DBE) goal of 9.3 % for this contract. The information provided herein shows the required good faith efforts to meet or exceed the DBE contract goal.

Proposers or bidders submit the following information to document their good faith efforts within five (5) business days from bid opening. Proposers and bidders are recommended to submit the following information even if the Exhibit 10-O1: Consultant Proposal DBE Commitments or Exhibit 15-G: Construction Contract DBE Commitment indicates that the proposer or bidder has met the DBE goal. This form protects the proposer’s or bidder’s eligibility for award of the contract if the administering agency determines that the bidder failed to meet the goal for various reasons, e.g., a DBE firm was not certified at bid opening, or the bidder made a mathematical error.

The following items are listed in the Section entitled “Submission of DBE Commitment” of the Special Provisions, **please attach additional sheets as needed**:

- A. The names and dates of each publication in which a request for DBE participation for this project was placed by the bidder (please attach copies of advertisements or proofs of publication):

<u>Publications</u>	<u>Dates of Advertisement</u>
_____	_____
_____	_____
_____	_____

- B. The names and dates of written notices sent to certified DBEs soliciting bids for this project and the dates and methods used for following up initial solicitations to determine with certainty whether the DBEs were interested (please attach copies of solicitations, telephone records, fax confirmations, etc.):

<u>Names of DBEs Solicited</u>	<u>Date of Initial Solicitation</u>	<u>Follow Up Methods and Dates</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

- C. The items of work made available to DBE firms including those unbundled contract work items into economically feasible units to facilitate DBE participation. It is the bidder's responsibility to demonstrate that sufficient work to facilitate DBE participation in order to met or exceed the DBE contract goal.

Items of Work	Bidder Normally Performs Item (Y/N)	Breakdown of Items	Amount (\$)	Percentage Of Contract
---------------	-------------------------------------	--------------------	-------------	------------------------

- D. The names, addresses and phone numbers of rejected DBE firms, the reasons for the bidder's rejection of the DBEs, the firms selected for that work (please attach copies of quotes from the firms involved), and the price difference for each DBE if the selected firm is not a DBE:

Names, addresses and phone numbers of rejected DBEs and the reasons for the bidder's rejection of the DBEs:

Names, addresses and phone numbers of firms selected for the work above:

- E. Efforts (e.g. in advertisements and solicitations) made to assist interested DBEs in obtaining information related to the plans, specifications and requirements for the work which was provided to DBEs:

F. Efforts (e.g. in advertisements and solicitations) made to assist interested DBEs in obtaining bonding, lines of credit or insurance, necessary equipment, supplies, materials, or related assistance or services, excluding supplies and equipment the DBE subcontractor purchases or leases from the prime contractor or its affiliate:

G. The names of agencies, organizations or groups contacted to provide assistance in contacting, recruiting and using DBE firms (please attach copies of requests to agencies and any responses received, i.e., lists, Internet page download, etc.):

Name of Agency/Organization	Method/Date of Contact	Results
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H. Any additional data to support a demonstration of good faith efforts:

EXHIBIT 12-B: BIDDER’S LIST OF SUBCONTRACTORS (DBE AND NON-DBE) PART 1

As of March 1, 2015 Contractors (and sub-contractors) wishing to bid on public works contracts shall be registered with the State Division of Industrial Relations and certified to bid on Public Works contracts. Please register at: <https://efiling.dir.ca.gov/PWCR/ActionServlet?action=displayPWCRegistrationForm>

In accordance with Title 49, Section 26.11 of the Code of Federal Regulations, and Section 4104 of the Public Contract Code of the State of California, as amended, the following information is required for each sub-contractor who will perform work amounting to more than one half of one percent (0.5%) of the Total Base Bid or \$10,000 (whichever is greater). **Photocopy this form for additional firms.** Federal Project Number: ER-32L0(346)

Subcontractor Name and Location	Line Item & Description	Subcontract Amount	Percentage of Bid Item Sub-contracted	Contractor License Number	DBE (Y/N)	DBE Cert Number	Annual Gross Receipts	
				DIR Reg Number				
Name:							<input type="checkbox"/>	<\$1 million
City, State:							<input type="checkbox"/>	<\$5 million
							<input type="checkbox"/>	<\$10 million
							<input type="checkbox"/>	<\$15 million
							Age of Firm: ___yrs.	
Name:							<input type="checkbox"/>	<\$1 million
City, State:							<input type="checkbox"/>	<\$5 million
							<input type="checkbox"/>	<\$10 million
							<input type="checkbox"/>	<\$15 million
							Age of Firm: ___yrs.	
Name:							<input type="checkbox"/>	<\$1 million
City, State:							<input type="checkbox"/>	<\$5 million
							<input type="checkbox"/>	<\$10 million
							<input type="checkbox"/>	<\$15 million
							Age of Firm: ___yrs.	
Name:							<input type="checkbox"/>	<\$1 million
City, State:							<input type="checkbox"/>	<\$5 million
							<input type="checkbox"/>	<\$10 million
							<input type="checkbox"/>	<\$15 million
							Age of Firm: ___yrs.	
Name:							<input type="checkbox"/>	<\$1 million
City, State:							<input type="checkbox"/>	<\$5 million
							<input type="checkbox"/>	<\$10 million
							<input type="checkbox"/>	<\$15 million
							Age of Firm: ___yrs.	
Name:							<input type="checkbox"/>	<\$1 million
City, State:							<input type="checkbox"/>	<\$5 million
							<input type="checkbox"/>	<\$10 million
							<input type="checkbox"/>	<\$15 million
							Age of Firm: ___yrs.	
Name:							<input type="checkbox"/>	<\$1 million
City, State:							<input type="checkbox"/>	<\$5 million
							<input type="checkbox"/>	<\$10 million
							<input type="checkbox"/>	<\$15 million
							Age of Firm: ___ yrs.	

Distribution: Original-Local Agency File

EXHIBIT 12-B: BIDDER’S LIST OF SUBCONTRACTORS (DBE AND NON-DBE) PART 2

In accordance with Title 49, Section 26 of the Code of Federal Regulations, the bidder shall list all subcontractors who provided a quote or bid, but **were not selected** to participate as a subcontractor on this project. **Photocopy this form for additional firms.**

Federal Project Number: ER-32L0(346)

Subcontractor Name and Location	Line Item & Description	Subcontract Amount	Percentage of Bid Item Sub-contracted	Contractor License Number	DBE (Y/N)	DBE Cert Number	Annual Gross Receipts	
				DIR Reg Number				
Name:							<input type="checkbox"/>	<\$1 million
City, State:							<input type="checkbox"/>	<\$5 million
							<input type="checkbox"/>	<\$10 million
							<input type="checkbox"/>	<\$15 million
							Age of Firm: ___yrs.	
Name:							<input type="checkbox"/>	<\$1 million
City, State:							<input type="checkbox"/>	<\$5 million
							<input type="checkbox"/>	<\$10 million
							<input type="checkbox"/>	<\$15 million
							Age of Firm: ___yrs.	
Name:							<input type="checkbox"/>	<\$1 million
City, State:							<input type="checkbox"/>	<\$5 million
							<input type="checkbox"/>	<\$10 million
							<input type="checkbox"/>	<\$15 million
							Age of Firm: ___yrs.	
Name:							<input type="checkbox"/>	<\$1 million
City, State:							<input type="checkbox"/>	<\$5 million
							<input type="checkbox"/>	<\$10 million
							<input type="checkbox"/>	<\$15 million
							Age of Firm: ___yrs.	
Name:							<input type="checkbox"/>	<\$1 million
City, State:							<input type="checkbox"/>	<\$5 million
							<input type="checkbox"/>	<\$10 million
							<input type="checkbox"/>	<\$15 million
							Age of Firm: ___yrs.	
Name:							<input type="checkbox"/>	<\$1 million
City, State:							<input type="checkbox"/>	<\$5 million
							<input type="checkbox"/>	<\$10 million
							<input type="checkbox"/>	<\$15 million
							Age of Firm: ___yrs.	

Distribution: Original-Local Agency File

FEDERAL WAGE RATES

Bidders are directed to the following web site to obtain the most current prevailing wage requirements:

<https://beta.sam.gov/search?index=wd&keywords=&sort=-modifiedDate&wdType=dbra&page=1>

Davis-Bacon Act WD #: CA20200018

Wage Determination

State

California

Modification #

6

County/ies

Alameda, Calaveras, Contra Costa, Fresno, Kings, Madera, Mariposa,
Merced, Monterey, San Benito, San Francisco, San Joaquin, San Mateo,
Santa Clara, Santa Cruz, Stanislaus, Tuolumne

Construction Type

Building, Heavy, Highway

Last Revised Date

Mar 12, 2020

Upon award of the contract, the full wage determination document will be inserted into the contract documents and made part of the contract.

RELATIONS WITH RAILROAD

Where construction of a federal-aid project requires use of railroad properties or adjustments to railroad facilities, there shall be an agreement in writing between the local agency and the railroad company.

FHWA approval of railroad agreements is required for nonexempt projects. A copy of the conformed agreement shall be transmitted through the DLAE for FHWA review.

Construction work is anticipated to occur within the Santa Cruz Branch Rail Line, which is currently deemed an inactive rail line, but may become active prior to the completion of the project. The Contractor shall follow Technical Provisions Section 10.01 Mobilization and Demobilization for advanced railroad notification prior to construction operations, railroad right of entry agreements as required, insurance requirements, temporary protective fencing adjacent to the railroad and protection of existing railroad structures and drainage ditch. The Contractor shall also adhere to Technical Provisions Section 10.05 Railroad Flagging only if upon advance notification of work the rail line has been deemed active as described in that section.