

APPENDIX 1

DEFINED TERMS

As used in the Design-Build Contract to which this Appendix is attached and in the other Contract Documents, the following terms shall have the meanings set forth below. References to Sections and Appendices shall mean Sections and Appendices of the Design-Build Contract unless otherwise specified:

Affiliate shall mean (a) any Person which directly or indirectly through one or more intermediaries controls, or is controlled by, or is under common control with, Design-Builder or any of its members, partners or shareholders holding a 10% or greater interest in Design-Builder; and (b) any Person for which 10% or more of the equity interest in such Person is held directly or indirectly, beneficially or of record by (i) Design-Builder, (ii) any of Design-Builder's members, partners or 10% or greater shareholders or (iii) any Affiliate of Design-Builder under part (a) of this definition. For purposes of this definition the term "control" means the possession, directly or indirectly, of the power to cause the direction of the management of a Person, whether through voting securities, by contract, family relationship or otherwise. Work performed by Affiliates shall be deemed performed by Design-Builder's own organization.

Application for Final Payment shall mean Design-Builder's written request for Final Payment of the Contract Price including reconciliation of all partial payments, claims, changes or other proper adjustments to the Contract Documents, as described in Section 12.4.1.

Architect shall mean Design-Builder's architect in charge of the Project.

Background Documents shall mean the documents listed in Appendix 6.

Betterment shall mean any upgrading of a Utility in the course of a Utility Adjustment that is not attributable to the construction of the Project and is made solely for the benefit of and at the election of the Utility Owner, including an increase in the capacity, capability, efficiency or function of an Adjusted Utility over that which was provided by the existing Utility.

Notwithstanding the foregoing, the following are not considered Betterments:

- (a) any upgrading which is required for accommodation of the Project;
- (b) replacement devices or materials that are of equivalent standards although not identical;
- (c) replacement of devices or materials no longer regularly manufactured with an equivalent or next higher grade or size;
- (d) any upgrading required by applicable Governmental Rules;
- (e) replacement devices or materials that are used for reasons of economy (e.g., non-stocked items may be uneconomical to purchase);
- (f) any upgrading required by the Utility Owner's standard specifications, standards of practice and construction methods; and
- (g) any discretionary decision by a Utility Owner that is contemplated within a particular standard described in clause (f) above.

In case of any discrepancy between the foregoing definition of Betterment and that agreed upon between City and a Utility Owner with respect to a particular Utility Adjustment, the definition agreed upon between City and the Utility Owner shall prevail.

Business Day shall mean each day on which City is officially open for business.

Certificate of Project Acceptance shall mean the formal written acknowledgment issued by City to Design-Builder that all Work has been fully completed in accordance with the Contract Documents described in Section 20.3.3.

Certificate of Project Completion shall mean the formal written acknowledgment issued by City to Design-Builder that Design-Builder has achieved Project Completion.

Change Notice shall mean a notice delivered by City to Design-Builder pursuant to Section 13.2.1.

Change Order shall have the meaning set forth in Section 13.1.1.1.

Change in Law shall mean the enactment, adoption, modification, repeal or other change in any Governmental Rule that occurs after the Effective Date of the Contract (including any change in the judicial or administrative interpretation of any Governmental Rule, or adoption of any new Governmental Rule) which is materially inconsistent with Governmental Rules in effect on the Effective Date of the Contract, but excluding any such change in or new Governmental Rule which was passed or adopted but not yet effective as of the Effective Date of the Contract.

City shall mean the City of San Jose.

City-Caused Delays shall mean unavoidable delays, to the extent that they affect a Critical Path, arising from the following matters and no others: (a) City-Directed Changes and (b) failure or inability of City to provide responses to proposed schedules, plans, Design Documents, Construction Documents and other submittals and matters for which response by City is required, within the time periods indicated in the Contract Documents; and (c) uncovering, removing and restoring Work, to the extent provided in Section 5.5.3.

City Decision shall mean the written decision issued by City pursuant to Section "19.2.

City-Directed Changes shall mean any changes in the Work (including changes in the standards applicable to the Work) which City has directed Design-Builder to perform as described in Section 13.1, and any order to suspend for convenience exceeding 48 hours per order pursuant to Section "14.1.

City's Project Manager shall mean the individual designated by City to manage the Project and to receive delivery of notices to City.

City-Provided Approvals shall mean any required City approvals, including but not limited to: building, fire, and hazardous materials permits.

Claim shall mean a separate demand by Design-Builder for (a) a time extension which is disputed by City, or (b) payment of money or damages arising from work done by or on behalf of Design-Builder in connection with the Contract which is disputed by City.

Completion Deadlines shall mean, depending on the context, any or all of the following deadlines, in connection with the Project Technical Requirements.

Construction Documents shall mean all shop drawings, working drawings and samples necessary for construction of the Project in accordance with the Contract Documents.

Contract shall mean, depending on the context, (a) the Design-Build Contract, or (b) collectively, the Contract Documents which establish the respective rights and obligations of City and Design-Builder.

Contract Documents shall have the meaning set forth in Section 1.2.

Contract Price shall have the meaning Contract Design-Build Lump Sum (Fixed) Price.

Cost and Schedule Proposal shall mean each submittal serving to identify price and schedule modifications associated with Change Orders issued pursuant to Section 13, meeting all applicable requirements set forth in Section 13.

Critical Path shall mean each critical path on the Project Schedule which ends on the Completion Deadline (i.e. the term shall apply only following consumption of all available Float in the schedule. The lower case term "critical path" shall mean the sequence of activities on the Project Schedule that shows the shortest time path for completion of each task.

Design-Build Contract shall mean that certain Design-Build Contract for the Aircraft Rescue Fire Fighting Facility Project at the Airport executed by City and Design-Builder, including any and all amendments thereto.

Design-Builder shall mean the entity identified as Design-Builder on Page 1 of the Design-Build Contract.

Design-Builder Contingency shall have the meaning set forth in Section 12.1.4.1.

Design-Builder-Related Entities shall mean Design-Builder, Subcontractors, their employees, agents and officers and all other Persons for whom Design-Builder may be legally or contractually responsible.

Design Builder's Superintendent shall mean the Project Superintendent identified in the Statement of Qualifications.

Design Documents shall mean all drawings (including plans, elevations, sections, details and diagrams), specifications, reports, calculations, records and submittals necessary for design of the Project in accordance with the Contract Documents, following approval thereof by City and others as required by the Contract Documents.

Design Review shall mean the formal review of an existing or proposed design for the purpose of detection and remedy of design deficiencies that would affect fitness-for-use and environmental aspects of the product, process or service, and/or identification of potential improvements of performance, safety and economic aspects.

Deviation shall mean any change, deviation, modification or alteration from the requirements of the Contract Documents (including deviations from standards referenced in the Contract Documents).

Differing Site Condition shall be defined in Section 4-1.07 of Appendix 2.

Directive Letter shall mean a letter issued by City pursuant to Section 13.1.1.2.

Director shall mean the director of the City department primarily responsible for the design, construction and administration of City public works projects.

Disputes shall have the meaning set forth in Section 19.2.

Dispute Review Board shall mean the board described in Section 19.3.1.

Engineer of Record shall mean Design-Builder's Engineer in charge of the Project.

Environmental Laws shall mean all Governmental Rules now or hereafter in effect regulating, relating to, or imposing liability or standards of conduct concerning the environment or to emissions, discharges, releases or threatened releases of hazardous, toxic or dangerous waste, substance or material into the environment including into the air, surface water or ground water or onto land, or relating to the manufacture, processing, distribution, use, re-use, treatment, storage, disposal, transport or handling of Hazardous Materials or otherwise relating to the protection of public health, public welfare or the environment (including protection of nonhuman forms of life, land, surface water, groundwater and air) including the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601 *et seq.* ("CERCLA"); the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 *et seq.* ("RCRA"); the Toxic Substances Control Act, 15 U.S.C. §§ 2601 *et seq.*; the National Environmental Policy Act, 42 U.S.C. §§ 4321 *et seq.*; the Occupational Safety and Health Act, 29 U.S.C. §§ 651 *et seq.*; the California Occupational Safety and Health Act of 1973, Lab. Code §§63000 *et seq.*; the Hazardous Materials Transportation Act, 49 U.S.C. §§ 1801 *et seq.*; the Endangered Species Act, 16 U.S.C. §§ 1531 *et seq.*; the Clean Water Act, 33 U.S.C. §§ 1251 *et seq.*; the Clean Air Act, 42 U.S.C. §§ 7401 *et seq.*; the Safe Drinking Water Act, 42 U.S.C. §§ 300f *et seq.*; and the Migratory Bird Treaty Act, 16 U.S.C. §§ 703 *et seq.*; and Fish and Game Code §§ 1600 *et seq.*, all as amended.

Error shall mean an error; omission, inconsistency, inaccuracy, deficiency or other defect.

Event of Default shall have the meaning set forth in Section 16.2.1.

Facilitated Dispute Resolution shall mean City and Design-Builder meeting with a trained, neutral facilitator in an effort to reach a mutually agreeable resolution to a dispute. It is an informal, non-binding dispute resolution process in which each side has an opportunity to present its position and supporting information.

Final Design Documents shall mean the complete final construction plans (including drawings, elevations, sections, details and diagrams) and specifications for the Project.

Final Payment shall mean payment by City of the final installment of the Contract Price.

Float shall generally mean the difference between early completion times and late completion times for activities shown on Project Schedule, and shall include any float contained

within an activity as well as any period containing an artificial activity (that is, one which is not encompassed with the meaning of the word "Work").

Force Majeure Event shall mean any of the following events (provided such events are beyond the control of Design-Builder and are not due to an act or omission of any Design-Builder-Related Entity which materially and adversely affects Design-Builder's obligations hereunder and which event (or the effects of the event) could not have been avoided or prevented by due diligence and use of reasonable efforts by Design-Builder:

- (a) Any acts of God or of the public enemy, fire, floods, tidal waves, earthquakes, epidemics, quarantine restrictions, strikes, labor disputes, shortage of materials and freight embargoes; and
- (b) Any blockade, rebellion, riot or act of sabotage or civil commotion or act of terrorism.

The term "shortage of materials," as used in the definition of "Force Majeure Event," shall apply only to materials, articles, parts or equipment which are standard items and are to be incorporated in the Work, and includes only the physical shortage of material.

The term "Force Majeure Event" shall be limited to the matters listed above and specifically excludes from its definition the following matters which might otherwise be considered force majeure:

- [i] rain; unless unseasonably excessive
- [ii] except as provided in (b) above, malicious or other acts intended to cause loss or damage or other similar occurrence;
- [iii] except as provided in (a) above, work slowdown, work stoppage, secondary boycott, walkout or other similar occurrence;
- [iv] the presence at, near or on the Site, as of the Effective Date of the Contract of any Hazardous Materials, including substances disclosed in the Phase I Environmental Assessment Report as well as any substances contained in any structure required to be demolished in whole or in part or relocated as part of the Work;
- [v] the suspension, termination, interruption, denial or failure to obtain or nonrenewal of any permit, license, consent, authorization or approval (including all Governmental Approvals) which is necessary for the performance of the Work or the operation or maintenance of the Project;
- [vi] any Change in Law;
- [vii] any lawsuit relating to any New Approval which is Design-Builder's risk under Section 6.4.2;
- [viii] shortages of materials, parts, articles or equipment which are processed, made, constructed, fabricated or manufactured to meet specific requirements of the

Contract;

- [ix] Delays in obtaining materials due to priority in filling orders; and
- [x] all other matters not caused by City or beyond the control of City and not listed in (a) and (b) above.

Formal Partnering as further defined in Appendix 2, shall mean City and Design-Builder implementing partnering through at least one pre-construction workshop conducted by a facilitator. The purpose of the initial pre-construction workshop is to mutually develop a strategy for forming a successful partnering relationship. City and Design-Builder may participate in additional facilitated workshops during the life of the public work construction project as they decide is necessary and appropriate.

Governmental Approval shall mean any approval, authorization, certification, consent, exemption, filing, lease, license, permit, registration or ruling, required by or with any Governmental Person in order to perform the Work or any Utility Adjustment being performed by a Utility Owner, including any modification or supplement to any of the foregoing, but excluding (a) any such approvals relating to the work to be performed by other contractors as specifically described in the Contract Documents and (b) any such approvals required by or with a Governmental Person in its capacity as a Utility Owner.

Governmental Person shall mean any federal, state, local or foreign government and any political subdivision or any governmental, quasi-governmental, judicial, public or statutory instrumentality, administrative agency, authority, body or entity.

Governmental Rule shall mean any statute, law, regulation, ordinance, rule, judgment, order, decree, permit, concession, grant, franchise, license, agreement, directive, guideline, policy requirement or other governmental restriction or any similar form of decision of or determination by, or any interpretation or administration of any of the foregoing by, any Governmental Person, which is applicable to the Work, the Project, the Site or any Utility Adjustment being performed by a Utility Owner, whether now or hereafter in effect.

Guaranteed Maximum Price (GMP) shall mean a sum established between the City and Design-Builder as the maximum cost of performing the contracted Work on the basis of labor and materials, plus overhead expenses and profit, all as further specified in the Contract.

Hazardous Materials shall mean any: (a) substance, product, waste or other material of any nature whatsoever that exceeds maximum allowable concentrations for elemental metals, organic compounds or inorganic compounds, as defined by any Governmental Rule; (b) substance, product, waste or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to any Environmental Law; (c) any substance, product, waste or other material of any nature whatsoever which may give rise to liability under clause (a) or under any statutory or common law theory based on negligence, trespass, intentional tort, nuisance or strict liability or under any reported decisions of a state or federal court; (d) petroleum hydrocarbons excluding de minimus amounts and excluding petroleum hydrocarbon products contained within regularly operated motor vehicles; and (e) asbestos or asbestos-containing materials on or in the Site (other than mineral asbestos naturally occurring in the ground). The term "Hazardous Materials" includes Hazardous Waste.

Hazardous Materials Management shall mean sampling, stock-piling, storage, backfilling in place, asphalt batching, recycling, treatment, clean-up, remediation, transportation and/or off-site disposal of Hazardous Materials, whichever is the most cost-effective approach authorized under applicable Governmental Rules.

Hazardous Waste shall mean material that is hazardous waste as defined in Section 25117 of the California Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with applicable Governmental Rules.

Indemnified Parties shall have the meaning set forth in Section 18.1.1.

Lien shall mean any pledge, lien, security interest, mortgage, deed of trust or other charge or encumbrance of any kind, or any other type of preferential arrangement (including any agreement to give any of the foregoing, any conditional sale or other title retention agreement, any lease in the nature of a security instrument and the filing of or agreement to file any financing statement under the Uniform Commercial Code of any jurisdiction).

Liquidated Damages shall mean the damages described in Section 17.

Master CPM Schedule shall mean the CPM Project schedule.

New Approval shall mean any of the following: (a) a new Governmental Approval of the same type as the City-Provided Approvals; and (b) a revision, modification, or amendment to one or more of the City-Provided Approvals.

Notice of Termination for Convenience shall mean written notice issued by City to Design-Builder terminating the Work of Design-Builder for convenience.

Notice to Proceed or NTP shall mean the written authorization issued by City that permits Design-Builder to proceed with the Work.

Open Book shall mean allowing City to review underlying assumptions and data associated with pricing, including assumptions as to schedule, composition of equipment spreads, equipment rates, productivity, estimating factors, design and productivity allowances, contingency and indirect costs and other items reasonably required by City to satisfy itself to the reasonableness of the amount.

Partnering shall mean either the formal or informal the development of team- based relationships between Design-Builder and City pursuant to Section 19.1 in which: (1) trust and open communications are encouraged and expected from participants, (2) parties address and resolve issues and problems promptly and at the lowest possible level, (3) parties seek to develop solutions that are agreeable and meet the needs of everyone involved, (4) all parties have identified common goals for the partnerships and at the same time are aware of and respect each other's goals and values, and (5) parties seek input from each other in an effort to find better solutions for the problems and issues at hand, thus creating synergy in the relationship that fosters cooperation and improves the productivity of the partnership. The term is not intended to have any legal significance or to be construed as denoting a legal relationship of agency, partnership, or joint venture between City and Design-Builder.

Payment Bond shall mean the bond described in Section 8.2.

Performance Bond shall mean the bond described in Section 8.1.

Person shall mean any individual, corporation, company, voluntary association, partnership, trust, unincorporated organization or Governmental Person.

Program Criteria Document shall mean the document identified as the Program Criteria Document and provided to Design-Builder with the City-Provided Information and to be revised by Design-Builder in accordance herewith.

Progress Meeting shall mean the meetings described in Section 12.2.2.

Project shall mean the Aircraft Rescue Fire Fighting Facility Project described in the Project Technical Requirements.

Project Acceptance shall mean acceptance under Section 20.3 of the - Contract.

Project Acceptance Deadline shall have the meaning set forth in Section 4.2.2.2.

Project Completion shall mean completion under Section 20.2 of the Contract.

Project Completion Deadline shall have the meaning set forth in Section 4.2.2.1.

Project Site shall mean those areas designated in writing by City for performance of the Work with reference to the Project. For purposes of insurance (subject to any notification and other requirements imposed by the insurer(s) for approval), indemnification, safety and security requirements, the prevailing wage requirements, and payment for use of equipment, the term "Project Site" shall also include (a) the field office sites, (b) any property used for bonded storage of material for the Project approved by City under Section 12.3.3.1, (c) staging areas dedicated to the Project, and (d) areas where activities incidental to the Project are being performed by Design-Builder or Subcontractors covered by the worker's compensation policy included in the insurance described in Section 9, but excluding any permanent locations of Design-Builder or such covered Subcontractors.

Project Manager shall mean the individual designated as such in Appendix 11 or such other individual as is designated by Design-Builder to undertake such role, following approval of the change by City.

Project Technical Requirements shall mean Appendix 9 to the Design-Build Contract.

Punch List shall mean the list of Work that remains to be completed after achievement of Project Completion and shall be limited to minor incidental items of Work necessary to correct imperfections which have no adverse effect on the safety, use or operability of the Project.

Quality Assurance or QA shall mean all those planned and systematic actions necessary to provide adequate confidence that an item is in conformance with established requirements and will satisfy given needs. The activity of providing the evidence needed to establish confidence that quality functions are being performed adequately. QA is a management tool.

Quality Assurance Manager or QA Manager shall mean the individual as is designated in writing by Design-Builder to undertake the duties of the Quality Assurance Manager, following approval by City.

Quality Control or QC shall mean those functions that provide a means to control and measure characteristics, as related to established system design requirements. It shall also mean the techniques and activities that sustain the quality of an item to satisfy given needs; also the use of such techniques and activities. QC is a production tool.

Quality Control Programs shall mean the Design Quality Control Program and the Construction Quality Control Program.

Release of Hazardous Materials shall mean any spill, leak, emission, release, discharge, injection, escape, leaching, dumping or disposal of Hazardous Materials into the soil, air, water, groundwater or environment, including any exacerbation of an existing release or condition of Hazardous Materials contamination.

Request for Change Order shall mean a document submitted by Design-Builder in accordance with Section 13.3.2 requesting that a Change Order be issued.

Request for Proposals or RFP shall mean the Aircraft Rescue Fire Fighting Facility Project Request for Proposals approved by the City Council on _____.

Retainage shall have the meaning set forth in Section 12.3.1.1.

RFC Notice shall have the meaning set forth in Section 13.3.2.1.

Schedule of Values shall have the meaning set forth in Section 2.1.2(a).

Standard Specifications shall mean the 1992 Edition of the City of San Jose Standard Specifications for Public Works Construction, issued by the Department of Public Works, as amended by the Modified General Provisions set forth in Appendix 2, and subject to certain additional modifications as specified in the Project Technical Requirements.

State shall mean the State of California.

Subcontract shall mean an agreement between Design-Builder and one or more third parties providing for such third party to perform any part of the Work or provide any materials, equipment or supplies for any part of the Work, or any such agreement between a Subcontractor and its lower tier Subcontractor or a Supplier and its lower tier Supplier, at any tier.

Subcontractor shall mean any Person with whom Design-Builder has entered into any Subcontract and any other Person with whom any Subcontractor has further subcontracted any part of the Work, at any tier.

Supplier shall mean any Subcontractor that supplies machinery, equipment, materials or systems to Design-Builder or any Subcontractor in connection with the performance of the Work and that does not perform Work at the Site. Persons who merely transport, pick up, deliver or carry materials, personnel, parts or equipment or any other items or persons to or from the Site shall not be deemed to be performing Work at the Site. The term "Supplier" includes fabricators

and material dealers.

Surety shall mean each properly licensed surety company, insurance company or other Person approved by the California State Insurance Commissioner to do business in the State and approved by City, which has issued the Payment Bond or the Performance Bond.

Project Completion shall mean Project Completion and Project Acceptance.

Project Schedule shall have the meaning set forth in Section 2.1.2.2.

Task Order shall mean an executed amendment to the Contract setting forth the scope of services, schedule of performance price and any other material terms for Design-Builder's performance of Work.

Time and Materials Change Order shall have the meaning set forth in Section 13.7.

Time and Materials Work shall mean Work performed pursuant to a Time and Materials Change Order.

Utility shall mean a public, private, cooperative, municipal and/or government line, facility or system used for the carriage, transmission and/or distribution of cable television, electric power, telephone, telegraph, water, gas, oil, petroleum products, steam, chemicals, hydrocarbons, telecommunications, sewage, storm water not connected with the drainage of the facility, and similar substances that directly or indirectly serve the public. The necessary appurtenances to each Utility Project shall be considered part of such Utility. Without limitation, any service line connecting directly to a Utility shall be considered an appurtenance to that Utility, regardless of the ownership of such service line.

Utility Adjustment shall mean each relocation (temporary or permanent), abandonment, protection in place, removal (of previously abandoned Utilities as well as of newly abandoned Utilities), replacement, reinstallation, and/or modification of existing Utilities necessary to accommodate construction, operation, maintenance and/or use of the Project.

Utility Adjustment Work shall mean all efforts and costs necessary to accomplish the required Utility Adjustments, including all coordination, design, design review, permitting, construction, inspection, maintenance of records, relinquishment of existing Utility property interests and acquisition of replacement Utility property interests, whether provided by Design-Builder, the City, or by the Utility Owners. The term also includes any reimbursement of Utility Owners. Any Utility Adjustment Work furnished or performed by Design-Builder is part of the Work; any Utility Adjustment Work furnished or performed by the City or a Utility Owner is not part of the Work.

Utility Owner shall mean the owner or operator of any Utility (including both privately held and publicly held entities, cooperative utilities, and municipalities and other governmental agencies).

Warranties shall mean the express warranties of Design-Builder set forth in Section 11.1.

Work shall mean all of the administrative, design, engineering, real property acquisition support and occupant relocation services, Utility Adjustment Work, procurement, legal, professional, manufacturing, supply, installation, construction, supervision, management, testing, verification, labor, materials, equipment, maintenance, documentation and other duties and services to be furnished and provided by Design-Builder as required by the Contract Documents, including all efforts necessary or appropriate to achieve Project Acceptance and to fulfill the Warranties, except for those efforts which the Contract Documents expressly specify will be performed by City or Persons other than Design-Builder-Related Entities. In certain cases the term is also used to mean the products of the Work.

APPENDIX 2

MODIFIED GENERAL PROVISIONS

(Replacement Sections 1 through 9)

This Appendix 2 sets forth the Modified Standard Specifications for the Aircraft Rescue Fire Fighting Facility Project at the Airport. The provisions contained in this Appendix 2 shall replace Sections 1 through 9 of the 1992 Standard Specifications for Public Works Construction issued by the Department of Public Works (the "City Standard Specifications"), and differ materially from the printed volume. The 1992 edition of the City Standard Specifications is a complete revision of and supersedes the publication of the same title dated 1975.

The Modified Standard Specifications may include cross-references to provisions of the City Standard Specifications which are not applicable to this Contract because they have been superseded by other provisions of the Contract Documents. Any such cross-references shall be deemed references to the Contract Document provisions which have superseded the referenced provisions of the City Standard Specifications. Note that the City Standard Specifications are patterned after the Caltrans Standard Specifications; however, they have been modified to make them consonant with City of San Jose requirements. The subsections within Sections 1 through 9 of these Modified Standard Specifications and the City Standard Specifications bear identical numbers and cover the same subject matter of the Caltrans Standard Specifications. Additional subsections were added to the Caltrans Standard Specifications as necessary to complete the City Standard Specifications.

SECTION 1

DEFINITION AND TERMS

- 1-1.01 General
- 1-1.02 Abbreviations
- 1-1.03 Definitions and Terms
- thru**
- 1-1.49

CITY OF SAN JOSE
STANDARD SPECIFICATIONS
FOR
PUBLIC WORKS CONSTRUCTION

SECTION 1 - DEFINITION AND TERMS

1-1.01 General. Unless the context otherwise requires, wherever in the 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 provided in this Section 1. Refer to Contract Appendix 1 for additional defined terms.

Working titles having a masculine gender such as "journeyman" are utilized in the specifications for the sake of brevity, and are intended to refer to persons of either sex.

1-1.02 Abbreviations.

AAN	American Association of Nurserymen
AASHTO	American Association of State Highway and Transportation Officials
ACI	American Concrete Institute
AIA	American Institute of Architects
AISC	American Institute of Steel Construction
AISI	American Iron and Steel Institute
ANSI	American National Standards Institute
APHA	American Public Health Association
API	American Petroleum Institute
APWA	American Public Works Association
AREA	American Railway Engineering Association
ASA	American Standards Association
ASCE	American Society of Civil Engineers
ASHVE	American Society of Heating and Ventilating Engineers
ASLA	American Society of Landscape Architects
ASME	American Society of Mechanical Engineers
ASTM	American Society for Testing and Materials
AWG	American Wire Gage
AWPA	American Wood-Preservers' Association
CF	Cubic Foot

CSJ	City of San Jose
CY	Cubic Yard
EA	Each
EEI	Electrical Engineers Institute
EIA	Electronic Industries Association
FAA	Federal Aviation Administration
FHWA	Federal Highway Administration
Gal	Gallon
H	Hour
IEEE	Institute of Electrical and Electronics Engineers
IES	Illuminating Engineers Society
IMSA	International Municipal Signal Association
J	Joule
KPa	Kilopascal
LB	Pound
LF	Linear Foot
LS	Lump Sum
MFBM	Thousand Foot Board Measure
MI	Mile
MPa	MegaPascal
MSYD	Thousand Station Yard
N	Newton
NEC	National Electrical Code
NEMA	National Electrical Manufacturers Association
Ω	Ohm
Pa	Pascal
PUC	Public Utilities Commission
REA	Rural Electrification Administration
S	Second
SS	State Specification
STA	Station

TAB	Tablet
UBC	Uniform Building Code
UL	Underwriters' Laboratories Inc.
V	Volt
W	Watt

1-1.03 Acceptance. The formal written acceptance by the Engineer of an entire contract which has been completed in all respects in accordance with the plans and specifications and any modifications thereof previously approved.

1-1.032 (Blank)

1-1.034 Admitted Surety, Insurer or Carrier. A surety or insurance carrier admitted to transact insurance in the State of California, as evidenced by the surety's or insurer's possession of a valid Certificate of Authority issued by the California Department of Insurance, as defined by the California Insurance Code.

1-1.036 (Blank)

1.04 (Blank)

1-1.05 Base. A layer of specified material of planned thickness placed immediately below the pavement or surfacing.

1-1.06 Basement Material. The material in excavation or embankments underlying the lowest layer of subbase, base, pavement, surfacing or other specified layer which is to be placed.

1-1.075 (Blank)

1-1.08 Bridge. Any structure which carries a utility facility, or railroad, highway, street, or road, pedestrian, or other traffic, over a water course or over or under or around any obstruction.

1-1.081 Calendar Day. A calendar day shall be any day including all legal holidays, Saturdays and Sundays.

1-1.082 Caltrans. The Department of Transportation of the State of California organized to administer the affairs relating to State highways.

1-1.083 Caltrans Specifications. The standard specifications of the State of California, Department of Transportation.

1-1.084 City Clerk. City Clerk of the City of San Jose, and Ex-officio Clerk of the City Council.

1-1.085 City Council. City Council of the City of San Jose.

1-1.086 City of San Jose. A chartered municipal corporation of the State of California, as created by law; also referred to as the "City" or "Owner."

1-1.087 City Manager. Chief Administrative Officer of the City.

1-1.088 Conduit. A pipe or tube in which smaller pipes, tubes, or electrical conductors are inserted or are

to be inserted.

1-1.09 Contract. (Blank)

1-1.092 (Blank)

1-1.094 (Blank)

1-1.096 (Blank)

1-1.10 Contractor. The Design-Builder, unless it is not capitalized in which case it means a contractor other than the Design-Builder

1-1.102 County Agencies. Whenever, in these specifications, reference is made to any County agency or officer, such reference shall be deemed made to any agency or officer succeeding in accordance with law to the powers, duties, jurisdiction and authority of the agency or officer mentioned.

1-1.104 County Engineer. The County Engineer of the county in which the work is to be performed, acting either directly or through properly authorized agents, such agents acting within the scope of the particular duties properly delegated to them.

1-1.11 Culvert. Any structure, other than a bridge, which provides an opening under a roadway for drainage or other purposes.

1-1.115 (Blank)

1-1.12 (Blank)

1-1.13 Department of Public Works. The Department of Public Works of the City of San Jose as created by law, also referred to herein as the "Department."

1-1.14 Detour. A temporary route for traffic around a closed portion of a road.

1-1.15 Director of Public Works. The executive officer of the Department of Public Works, as created by law also referred to as the "Director": also the ex-officio Superintendent of City Streets, acting either directly or through properly authorized agents, such agents acting within the scope of the particular duties properly delegated to them; also referred to herein as the "Engineer."

1-1.16 Divided Highway. A highway with separated traveled ways for traffic, generally in opposite directions.

1-1.17 (Blank)

1-1.18 Engineer. The City Engineer of the City of San Jose, being also the Director of the Department of Public Works of the City of San Jose, and ex-officio Superintendent of City Streets of San Jose, acting either directly or through properly authorized agents, such agents acting within the scope of the particular duties properly delegated to them.

1-1.19 (Blank)

1-1.20 Federal, State or Local Agencies. Whenever, in the specifications, reference is made to any Federal, State or Local agency or officer, including but not limited to the City, such reference shall be deemed made to any agency or officer succeeding in accordance with law to the powers, duties, jurisdiction, and authority of the agency or officer mentioned.

1-1.21 Fixed Costs. Any necessary labor, material and equipment costs directly expended on the item or items under consideration which remain constant regardless of the quantity of the work done.

1-1.22 Frontage Road. A local street or road auxiliary to and located generally on the side of an arterial highway for service to abutting property and adjacent areas and for control of access.

1-1.225 Full Compensation. Total and complete payment including overhead and profit for furnishing all supervision, labor, materials, tools, equipment, and doing all work involved in providing the item complete and in place in accordance with the requirements of the Contract.

1-1.23 Grading Plane. The surface of the basement material upon which the lowest layer of subbase, base, pavement, surfacing, or other specified layer, is placed.

1-1.24 Highway. The whole right of way or area which is reserved for and secured for use in constructing the roadway and its appurtenances also referred to herein as "street" or "road."

1-1.242 (Blank)

1-1.245 Inspector. An authorized representative of the Engineer, acting exclusively for the benefit of City, properly assigned to make all necessary inspections of the work performed or being performed, or of the materials furnished or being furnished by the Contractor for conformance to the Contract Documents.

1-1.25 Laboratory. The established laboratory of the Department or other laboratories authorized by the Department to test materials and work involved in the Contract.

1-1.255 Legal Holidays. Those days designated as holidays in the City of San Jose Municipal Code.

1-1.257 Limit of Work. The area described or outlined on the project plans. This area shall constitute the extent of the Contractor's operation related to the Project.

1-1.26 (Blank)

1-1.265 Manual of Traffic Controls. The Department of Transportation (Caltrans) publication entitled "MANUAL OF TRAFFIC CONTROLS for Construction and Maintenance Work Zones."

1-1.267 Material Storage Area. An area, if any, described or outlined on the project plans to be used by the Contractor for material and equipment storage related to the project.

1-1.27 Median. That portion of a divided highway separating the traveled ways for traffic in opposite directions including inside shoulders.

1-1.272 (Blank)

1-1.274 (Blank)

1-1.276 Notice to Proceed. The notice issued by the Engineer authorizing the Contractor to proceed with the work, among other particulars.

1-1.277 Notice of Termination. The written notice issued by the Engineer specifying that the Contract is terminated.

1-1.278 Partnering. The development of team-based relationships between the Design-Build Entity and City in which: (1) trust and open communications are encouraged and expected from participants, (2) parties address and resolve issues and problems promptly and at the lowest possible level, (3) parties seek to develop solutions that are agreeable and meet the needs of everyone involved, (4) all parties have identified common goals for the partnerships and at the same time are aware of and respect each other's goals and values, and (5) parties seek input from each other in an effort to find better solutions for the problems and issues at hand, thus creating synergy in the relationship that fosters cooperation and improves the productivity of the partnership. The term is not intended to have any legal significance or to be construed as denoting a legal relationship of agency, partnership, or joint venture between the City and

Design-Build Entity

1-1.28 Pavement. The uppermost layer of material placed on the traveled way or shoulders. This term is used interchangeably with surfacing.

1-1.29 Plans. The official Project plans, and Standard Plan Details, profiles, typical cross sections, working drawings and supplemental drawings, or reproductions thereof, approved by the Engineer, which show the location, character, dimensions and details of the work to be performed. All such documents are to be considered as a part of the plans whether or not reproduced in the special provisions.

In the above definition, the following terms are defined as follows:

(a) Standard Plan Details - The Standard Plan Details of the Department, approved by City Council, also referred to herein as Standard Details.

(b) Project Plans - Final Design Documents.

1-1.295 Private Improvement Contract. Any improvement contract financed by a private party other than the City, to be constructed in public or private streets, and easements.

1-1.130 Processing. Any operation or operations of whatever nature and extent required to produce a specified material.

1-1.31 (Blank)

1-1.32 (Blank)

1-1.33 (Blank)

1-1.334 Right of Way. The whole right-of-way or area which is reserved for and secured for use in constructing the improvement and its appurtenances.

1-1.34 Roadbed. The roadbed is that area between the intersection of the upper surface of the roadway and the side slopes or curb lines. The roadbed rises in elevation as each increment or layer of subbase, base, surfacing or pavement is placed. Where the medians are so wide as to include areas of undisturbed land, a divided roadway is considered as including 2 separate roadbeds.

1-1.35 Roadway. That portion of the right of way included between the outside lines of sidewalks, or curbs, slopes, ditches, channels, waterways, and including all the appertaining structures, and other features necessary to proper drainage and protection.

1-1.36 Shoulders. The portion of the roadway contiguous with the traveled way for accommodation of stopped vehicles, for emergency use, and for lateral support of base and surface courses.

1-1.37 Special Provisions. Specific clauses setting forth conditions or requirements peculiar to the Work and supplementary to these Standard Specifications. The State of California Department of Transportation (Caltrans) publications entitled "Labor Surcharge And Equipment Rental Rates" and "General Prevailing Wage Rates" are to be considered as a part of the special provisions.

1-1.38 Specifications. The directions, provisions and requirements contained in the Contract Documents.

1-1.39 State. The State of California.

1-1.40 (Blank)

1-1.41 Subbase. A layer of specified material of planned thickness between a base and the basement material.

1-1.42 Subgrade. That portion of the roadbed on which pavement, surfacing, base, subbase, or a layer of any other material is placed.

1-1.425 (Blank)

1-1.43 Substructure. All that part of the bridge below the bridge seats, tops of piers, haunches of rigid frames, or below the spring lines of arches. Backwalls and parapets of abutments and wing walls of bridges shall be considered as parts of the substructure.

1-1.435 Superintendent of Streets. The Superintendent of City Streets of San Jose, also referred to as the "Engineer," "Director of Public Works," or "Director," acting directly or through properly authorized agents, such agents acting within the scope of the particular duties delegated to them.

1-1.44 Superstructure. All that part of the bridge except the bridge substructure.

1-1.45 Surfacing. The uppermost layer of material placed on the traveled way, or shoulders. This term is used interchangeably with pavement.

1-1.46 Traffic Lane. That portion of a traveled way for the movement of a single line of vehicles.

1-1.47 Traveled Way. That portion of the roadway for the movement of vehicles, exclusive of shoulders.

1-1.48 (Blank)

1-1.49 Working Day. Any day that is not a weekend or Legal Holiday.

END OF SECTION

SECTION 2

[Blank]

SECTION3

[Blank]

SECTION 4

SCOPE OF WORK

4-1.01	Intent of Plans and Specifications
4-1.02	Final Cleaning Up
4-1.03	Blank
4-1.03A	Blank
4-1.03B	Blank
4-1.03B(1)	Blank
4-1.03B(2)	Blank
4-1.03B(3)	Blank
4-1.03C	Blank
4-1.03D	Blank
4-1.03E	Blank
4-1.04	Detours
4-1.05	Use of Materials Found on the Work
4-1.07	Differing Site Conditions

SECTION 4
SCOPE OF WORK

4-1.01 Intent of Plans and Specifications. The intent of the plans and specifications is to prescribe the details for the construction and completion of the Work which the Contractor undertakes to perform in accordance with the terms of the Contract. Where the plans or specifications describe portions of the work in general terms, but not in complete detail, it is understood that only the best general practice is to prevail and that only materials and workmanship of the first quality are to be used. Unless otherwise specified, the Contractor shall furnish all labor, materials, tools, equipment and incidentals, and do all the work involved in executing the contract in a satisfactory and workmanlike manner.

4-1.02 Final Cleaning Up. Before final inspection of the Work, the Contractor shall clean the job site, highway, material sites, and all ground occupied by the Contractor in connection with the Work of all rubbish, excess materials, falsework, temporary structures, and equipment. All parts of the Work shall be left in a neat and presentable condition. Full compensation for final cleaning up will be considered as included in the Contract Price and no separate payment will be made therefor.

Nothing herein, however, shall require the Contractor to remove warning, regulatory, and guide signs prior to formal acceptance by the Director.

4-1.03 (Blank)

4-1.03A (Blank)

4-1.03B (Blank)

4-1.03B(1) (Blank)

4-J.03B(2) (Blank)

4-1.03B(3) (Blank)

4-1.03C (Blank)

4-1.03D (Blank)

4-1.03E (Blank)

4-1.04 Detours. The Contractor shall construct and remove detours and detour bridges for the use of public traffic as provided in the Contract Documents, or as shown on the Plans, or as directed by the Engineer. When public traffic is routed through the work, provision for a passageway through construction operations will not be considered as detour construction or detour maintenance and such work shall conform to and be paid for as provided in Section 7-1.08, "Public Convenience," unless otherwise specified in the Contract Documents.

Detours used exclusively by the Contractor for hauling materials and equipment shall be constructed and maintained by the Contractor at Contractor's expense, as cost of the work. The failure or refusal of the Contractor to construct and maintain detours at the proper time shall be sufficient cause for closing down the Work until such detours are in satisfactory condition for use by public traffic.

Contractor shall conduct its hauling activities so as to enable maintenance of the detour in a condition satisfactory for public traffic, without difficulty. Where the Contractor's hauling is causing such damage to the detour that its maintenance in a condition satisfactory for public traffic is made difficult and unusually expensive, the Engineer shall have authority to regulate the Contractor's hauling over the detour. The City may restrict use of the detour so as to facilitate maintenance.

4-1.05 Use of Materials Found on the Work. Unless designated as selected material as provided in Section 19-2.07, "Selected Material," the Contractor, with the approval of the Engineer, may use in the proposed construction such stone, gravel, sand or other suitable material suitable as may be found in excavation. The Contractor shall not excavate or remove any material from within the Project location that is not within the excavation, as indicated by the slope and grade lines, without written authorization from the Engineer.

4-1.07 Differing Site Conditions. For all excavations extending below the surface, the Contractor shall promptly, and before the following conditions are disturbed, notify the City, in writing, of any:

1. Subsurface or latent physical conditions at the Site differing from those indicated in the Contract Documents.
2. Unknown physical conditions at the Site of any unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in Work of the character provided for in the Contract.

END OF SECTION

SECTION 5

CONTROL OF WORK

5-1.01	Authority of Engineer
5-1.02A	Trench Excavation Safety Plans
5-1.03	Conformity with Contract Documents and Allowable Deviations
5-1.04	Coordination and Interpretation of Plans, Standard Specification, and Special Provisions
5-1.04A	Blank
5-1.04B	Blank
5-1.05	Blank
5-1.06	Superintendence
5-1.065	Blank
5-1.07	Blank
5-1.08	Inspection
5-1.08A	Inspection for Sole Benefit of the City
5-1.09	Removal of Rejected and Unauthorized Work
5-1.09A	Blank
5-1.09B	Modification to Contractor's Work
5-1.10	Equipment and Plants
5-1.11	Alternative Equipment
5-1.115	Blank
5-1.12	Blank
5-1.13	Blank
5-1.14	Blank
5-1.15	Blank
5-1.16	Blank

SECTION 5
CONTROL OF WORK

5-1.01 Authority of Engineer. It will be the Engineer's duty to inspect materials and workmanship for all deviations from the drawings, specifications and other Contract provision which may come to the Engineer's notice. Such inspection is for the sole benefit of the City and shall not act as a waiver of defects in the Work. The Engineer 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 of progress of the Work; all questions which may arise as to the interpretation of the plans and specifications; all questions as to the acceptable fulfillment of the contract on the part of the Contractor, and all questions as to compensation. The Engineer's decision shall be final and the Engineer shall have authority to enforce and make effective such decisions and orders which the Contractor fails to carry out promptly. The Engineer shall have the right to order the work stopped, if in the Engineer's opinion such action becomes necessary, until the Engineer has determined and ordered that the Work may proceed in due fulfillment of all Contract requirements. All orders from the Engineer and City for this and all other sections of this Appendix 2 shall be in writing and formally submitted to the Design-Builder.

5-1.02 Plans and Working Drawings. The Plans shall be supplemented by such working drawings prepared by the Contractor as are necessary to adequately control the work. No change shall be made by the Contractor in any working drawing after it has been reviewed by the Engineer without the further written approval.

Working drawings for any part of the permanent work shall include, but not be limited to: stress sheets, anchor bolt layouts, shop details, erection plans, equipment lists and any other information specifically required elsewhere in the Contract Documents.

Working drawings for cribs, cofferdams, falsework, temporary support systems, haul bridges, centering and form work and for other temporary work and methods of construction the Contractor proposes to use, shall be submitted when required by the Project Schedule or ordered by the Engineer. Such working drawings shall be subject to review by the Engineer insofar as the details affect the character of the finished Work and for compliance with design requirements applicable to the construction when specified or called for, but details of design will be left to the Contractor who shall be responsible for the successful construction of the Work.

Working drawings shall be reviewed by the Engineer before any Work involving such drawings is performed. It is expressly understood that review of the Contractor's working drawings shall not relieve the Contractor of any responsibility under the Contract for the successful completion of the Work in conformity with the requirements of the plans and specifications. Such review shall not operate to waive any of the requirements of the plans and specifications or relieve the Contractor of any obligation thereunder, and defective Work, materials and equipment may be rejected notwithstanding such review.

Working drawings shall include shop details, erection plans, masonry layout diagrams, and bending diagrams for reinforcing steel, which shall be approved by the Engineer before any Work involving these plans is performed. Plans for cribs, cofferdams, falsework, centering and form work shall be required and shall be subject to approval unless approval is waived by the Engineer. These plans will be subject to approval insofar as the details affect the character of the finished Work, but other details of design will be left to the contractor, who shall be responsible for the successful construction of the work.

It is expressly understood, however, that approval by the Engineer of the Contractor's working drawings does not relieve the Contractor of any responsibility for accuracy of dimensions and details, or for mutual agreement of dimensions and details. Contractor shall be responsible for agreement and conformity of his working drawings with approved plans and specifications and Special Provisions.

The Engineer's review of working drawings, and other submittals submitted for the Engineer's review by the Contractor shall not act as a waiver of defects subsequently discovered in such documents or in Work performed by the Contractor in reliance on those documents.

The Engineer's review of the Contractor's plans shall in no way be construed to impose tort liability on the City or any of its officers or employees by reason of any damage to property or person, including death resulting from or arising out of the use of such plan, and the Contractor shall indemnify, defend, and hold harmless the City, its officers and employees from any loss or liability resulting from the use of such plans as provided in the Contract.

The Contractor shall keep on the Work a copy of the plans and specifications including all authorized change orders, and shall at all times give the Engineer and the Engineer's representatives access thereto.

Plans and specifications and copies thereof furnished by the Engineer shall not be used on other projects without the Engineer's consent.

5-1.02A Trench Excavation Safety Plans. Attention is directed to Section 7-1.01E, "Trench Safety." The Contractor shall, before beginning any excavation or trench work, 5 feet or more in depth, secure a permit "to perform Excavation or Trenchwork," from the State of California, Division of Industrial Safety. Excavation for any trench 5 feet or more in depth shall not begin until completion of review by the Engineer, of the Contractor's detailed plan for worker protection from the hazards of caving ground during the excavation of such trench showing the details of the design of shoring, bracing, sloping or other provisions to be made for worker protection during such excavation. No such plan shall allow the use of shoring, sloping or a protective system less effective than that required by the Construction Safety Orders of the Division of Occupational Safety and Health and if such plan varies from the shoring system standards established by the Construction Safety Orders, the plan shall be prepared and signed by an engineer who is registered as a Civil or Structural Engineer in the State of California.

The acceptance of the copy of the permit "to perform Excavation or Trench work," or review by the Engineer of the Contractor's detailed plan for worker protection from the hazards of caving ground during the excavation of trenches, shall in no way be construed to impose tort liability on the City or any of its officers or employees by reason of any damage to person, including death or property resulting from or arising out of the use of such plan, and the Contractor shall be fully responsible for any such damage, and the Contractor shall indemnify and hold harmless the City, its officers and employees from any loss or liability resulting from the use of such plan as provided in the Contract.

The permit together with a copy of approved plan for trench safety shall be maintained on the job site at all times.

5-1.03 Conformity with Contract Documents and Allowable Deviations. Work and materials shall conform to the lines, grades, cross sections, dimensions and material requirements, including tolerances, shown on the plans or indicated in the specifications.

Although measurement, sampling and testing may be considered evidence as to such conformity, the Engineer shall be the sole judge as to whether the work or materials deviate from the plans and specifications, and the Engineer's decision as to any allowable deviations therefrom shall be final.

5-1.04 Coordination and Interpretation of Plans, Standard Specifications, and Special Provisions. These Standard Specifications, the Standard Plan Details, project plans, special provisions, 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.

Should it appear that the Work to be done or any of the matters relative thereto are not sufficiently

detailed or explained in these Standard Specifications, the Special Provisions, or the plans, the Contractor shall apply to the Engineer 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 question arising respecting the true meaning of these specifications, the special provisions or the plans, reference shall be made to the Engineer, whose decision thereon shall be final.

If the Contractor, in the course of the work, discovers any discrepancies between the plans and the conditions actually encountered at the Project site, or any errors or omissions in the plans or in the layout given by stakes, points or instructions, it shall be the Contractor's duty to inform the Engineer immediately in writing; and the Engineer shall promptly investigate the same. Any Work done after such discovery, until authorized will be done at the Contractor's risk.

In the event of any discrepancy, between any drawing and the figures written thereon, the figures shall be taken as correct. Detail drawings shall prevail over general drawings.

The headings and titles printed on the plans and in these general conditions, in the specifications and elsewhere in the contract documents, are inserted for the convenience of reference only, and shall not be taken or considered as having any bearing on the interpretation thereof.

5-1.04A (Blank)

5-1.04B (Blank)

5-1.05 (Blank)

5-1.06 Superintendence. The Contractor shall designate in writing before starting Work, an authorized representative who shall have the authority to represent and act for the Contractor.

Said authorized representative shall be present at the Site of the Work at all times while Work is actually in progress on the Contract. When Work is not in progress and during periods when Work is suspended, arrangements acceptable to the Engineer shall be made for any emergency work which may be required.

The Engineer shall be supplied at all times with the names and telephone numbers of at least 2 persons in charge of or responsible for the Work who can be reached for emergency work 24 hours a day, 7 days a week. In the event that one or both are unavailable at any time, the Contractor will provide alternative contacts for persons in charge of or responsible for the Work.

5-1.065 (Blank)

5-1.07 (Blank)

5-1.08 Inspection. The Engineer shall, at all times, have safe access to the Work during its construction, and shall be furnished with every reasonable facility for ascertaining that the materials and the workmanship are in accordance with the requirements and intentions of these specifications, the special provisions, and the plans. All work done and all materials furnished shall be subject to the Engineer's inspection.

The inspection of the Work or materials shall not relieve the Contractor of any obligations to fulfill the Contract as prescribed. Work and materials not meeting such requirements shall be made good and unsuitable Work or materials may be rejected, notwithstanding that such Work or materials have been previously inspected by the Engineer or that payment therefor has been included in a progress estimate.

Projects financed in whole or in part with Federal, State, County or Regional agency funds or otherwise subject to the jurisdiction or control by another public entity, shall be subject to inspection at all times by the appropriate Federal, State, County, or Regional agency or other public entity involved.

The Contractor shall notify the Engineer at least 24 hours in advance of the time required for the services of the Inspector. Should the Contractor fail to notify the Engineer and proceed with Work requiring inspection, all said Work shall be rejected by the Engineer. The Work so rejected may be subsequently accepted by the Engineer only after receipt of the certification described below and only if the Engineer approves such certification. Should the Contractor request acceptance of such rejected Work the Contractor shall, at the Contractor's sole expense, as cost of the work, secure the services of: private material testing laboratories, consulting engineers or licensed land surveyors, as previously approved by the City, who shall certify that said Work does, in fact, conform to the requirements of the plans and these Specifications.

5-1.08A Inspection for Sole Benefit of the City. The Contractor is hereby advised that inspection of the Contractor's work during the Contract is for the sole and exclusive benefit of the City. Such inspection shall not relieve the Contractor from any obligation to perform the Work pursuant to the plans and Specifications, even if defects or deficiencies in such Work were noted or observed at the time of such inspection and not communicated to the Contractor.

5-1.09 Removal of Rejected and Unauthorized Work. All Work which has been rejected shall be remedied, or removed and replaced by the Contractor in an acceptable manner and no compensation will be allowed to the Contractor for such removal, replacement, or remedial

Work. Any extra work done without written authority from the City will be considered as unauthorized work and will not be paid for. Upon order of the Engineer, unauthorized Work shall be remedied, removed, or replaced at the Contractor's expense, as cost of the work.

Upon failure of the Contractor to comply promptly with any written order of the Engineer made under this Section 5-1.09, the Engineer may cause rejected or unauthorized work to be remedied, removed, or replaced, and to deduct the costs from any moneys due or to become due the Contractor.

5-1.09A (Blank)

5-1.09B Modification to Contractor's Work. The City may modify the Contractor's Work, either before or after acceptance of the Project. Notification of the City's intent to modify the Contractor's Work will be made in writing 48 hours prior to commencement of the modification.

Whenever the City makes a claim against the Contractor for defective workmanship or materials, it shall be the sole obligation of the Contractor to establish that the defect being complained of was due solely to a modification, if any, made by the City.

5-1.10 Equipment and Plants. Only equipment and plants suitable to produce the quality of work and materials required will be permitted to operate on the project.

Plants shall be designed and constructed in accordance with general practice for such equipment and shall be of sufficient capacity to insure 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, in writing, by the Engineer, shall remove unsuitable equipment from the Work and discontinue the operation of unsatisfactory plants.

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, and shall furnish to the Engineer a list giving the description of each piece of equipment and its identifying number. 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.

The make, model, serial number and manufacturer's rated capacity for each scale shall be clearly stamped or stenciled on the load receiving element and its indicator or indicators. All meters shall be similarly identified, rated and marked. Upon request of the Engineer, the Contractor shall furnish a statement by the manufacturer, designating sectional and weighbridge capacities of portable vehicle scales.

Each machine or unit of equipment shall be operated by an experienced operator skilled in handling the particular make of machine or unit of equipment in use at a speed or rate of production not to exceed that recommended by the manufacturer.

All vehicles used to haul materials over existing traveled ways shall be equipped with pneumatic tires and operated within legal wheel load limits.

5-1.11 Alternative 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 Engineer to use equipment of a different size or type in place of the equipment specified.

The Engineer, before considering or granting such request, may require the Contractor to furnish, at the Contractor's expense, as cost of the work, evidence satisfactory to the Engineer 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 Engineer, 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 Engineer, are equal to, or better than, that which can be obtained with the equipment specified. The Engineer shall have the right to withdraw such permission at any time that the Engineer 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 Engineer, the Contractor will be required to use the equipment originally specified and shall, in accordance with the directions of the Engineer, remove and dispose of or otherwise remedy, at the Contractor's expense, as cost of the work, 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 Engineer to be in furtherance of the purposes of this Section 5-1.11. 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 Section 5-1.11 shall relieve the Contractor of responsibility for furnishing materials or producing finished Work of the quality specified in these specifications or in the special provisions.

5-1.115 (Blank)

5-1.12 (Blank)

5-1.13 (Blank)

5-1.14 (Blank)

5-1.15 (Blank)

5-1.16 (Blank)

5-1.17 Partnering. - The City and Contractor will use good faith efforts to promote the formation of a successful Partnering relationship in order to effectively complete the Contract to the benefit of both parties. The purpose of this relationship is to establish and maintain cooperative communication and to mutually resolve conflicts at the lowest responsible management level. The establishment of a Partnering relationship will not change or modify the terms and conditions of the Contract and will not relieve either party of the legal requirements of the Contract.

The City and Contractor will engage in either Formal Partnering or Informal Partnering, depending upon the size of the project.

5-1.17A Formal Partnering. – In Formal Partnering the City and the Contractor implement the Partnering relationship through at least one pre-construction partnering workshop conducted by an independent facilitator. The purpose of the initial pre-construction workshop is to mutually develop a strategy for forming a successful partnering relationship. The City and Contractor may participate in additional facilitated workshops during the life of the project as they mutually agree is necessary and appropriate.

For all projects in which the engineer’s estimate for the entire project prior to advertising for bids (or proposals for Design-Build projects) is \$10 million or more, the City and Contractor shall participate in Formal Partnering.

For all projects in which the engineer’s estimate for the entire project prior to advertising for bids is \$1 million or above but less than \$10 million dollars, the Contractor may elect to require the parties to participate in Formal Partnering. The Contractor shall elect Formal Partnering by submitting a request in writing to the Engineer after approval of the Contract.

The scheduling of a partnering workshop, selection of the partnering facilitator and workshop site, and other administrative details shall be as agreed to by both parties. The parties shall use good faith efforts to schedule the initial, pre-construction partnering workshop and to select the facilitator for the workshop as soon as reasonably possible following award of the Contract where Formal Partnering is mandatory or as soon as reasonably possible following a Contractor’s election to require Formal Partnering for all other projects.

The costs of Formal Partnering involved in providing the pre-construction partnering workshop, any subsequent, additional partnering workshops, and the facilitator for the partnering workshops shall be borne equally by the City and Contractor. These costs may be provided elsewhere in this Contract either as an allowance item or a specific bid item. If not, then the Engineer may issue a change order in the amount of one-half of the estimated cost of the facilitator and the partnering workshops.

The division of cost for the facilitator and partnering workshops will be made by determining the cost in conformance with the provisions in Section 9-1.03B, “Work Performed By Special Forces or Other Special Services,” of the Standard Specifications, and paying to the Contractor one-half of that costs, except no markups will be allowed.

All other costs associated with Formal Partnering will be borne separately by the party incurring the costs, such as wages and travel expenses, and no additional compensation will be allowed therefor.

5-1.17B Informal Partnering. In Informal Partnering the City and the Contractor will implement the Partnering relationship through partnering discussions that are not conducted by an independent

facilitator. The City and Contractor may participate in additional unfacilitated partnering meetings during the life of the project as they mutually agree is necessary and appropriate.

The City and Contractor will engage in informal partnering as follows: (1) on all projects in which the Engineer's estimate for the entire project prior to advertising for bids is below \$1 million, and (2) on all projects in which the engineer's estimate for the entire project prior to advertising for bids is \$1 million or above but less than \$10 million and the Contractor has not elected Formal Partnering.

END OF SECTION

SECTION 6

CONTROL OF MATERIALS

- 6-1.01 Source of Supply and Quality of Materials
- 6-1.02 Blank
- 6-1.03 Storage of Materials
- 6-1.04 Defective Materials
- 6-1.05 Trade Names and Alternatives
- 6-1.05A Blank
- 6-1.06 Plant Inspection
- 6-1.07 Certificates of Compliance
- 6-1.08 Foreign Materials
- 6-1.085
- 6-1.09 State Specification Numbers
- 6-1.10 Blank
- 6-1.11 Samples
- 6-2.01 General
- 6-2.02 Possible Local Material Sources
- 6-2.03 Mandatory Local Material Sources
- 6-3.01 General
- 6-3.02 Testing by Contractor
- 6-3.03 Statistical Testing
- 6-3.04 Field Tests, Adjustments and Operations

SECTION 6
CONTROL OF MATERIALS

6-1 GENERAL

6-1.01 Source of Supply and Quality of Materials. The Contractor shall furnish all materials required to complete the Work.

Only materials conforming to the requirements of the Specifications shall be incorporated in the Work.

The materials furnished and used shall be new, except as may be provided elsewhere in the Contract Documents. The materials shall be manufactured, handled, and used in a workmanlike manner to insure completed Work in accordance with the Contract Documents.

Materials to be used in the Work will be subject to inspection and tests by the Engineer or the Engineer's designated representative. The Contractor shall furnish without charge such samples as may be required. The Contractor shall furnish the Engineer a list of sources of materials and the locations at which such materials will be available for inspection. The list shall be submitted on a City furnished form and shall be furnished to the Engineer in sufficient time to permit inspecting and testing of materials to be furnished from such listed sources in advance of their use. No material which, even after approval, has in any way become unfit for use shall be used in the Work. The Engineer may inspect, sample or test materials at the source of supply or other locations, but such inspection, sampling or testing will not be undertaken until the Engineer is assured by the Contractor of the cooperation and assistance of both the Contractor and the supplier of the material. The Contractor shall assure that the Engineer or the Engineer's authorized representative has free access at all times to the material to be inspected, sampled or tested. It is understood that such inspections and tests in no way shall be considered as a guaranty of acceptance of such material nor of continued acceptance of material presumed to be similar to that upon which inspections and tests have been made, and that inspection and testing performed by the City shall not relieve the Contractor or the Contractor's suppliers of responsibility for quality control.

Manufacturers' warranties, guaranties, instruction sheets and parts lists, which are furnished with certain articles or materials incorporated in the work, shall be delivered to the Engineer before acceptance of the contract.

Reports and records of inspections made and tests performed, when available at the site of the work, may be examined by the Contractor.

6-1.02 (Blank)

6-1.03 Storage of Materials. Articles or materials to be incorporated in the Work shall be stored in such a manner as to insure the preservation of their quality and fitness for the Work, and to facilitate inspection.

6-1.04 Defective Materials. All materials which the Engineer has determined do not conform to the requirements of the plans and specifications will be rejected whether in place or not. They shall be removed immediately from the Site of the Work, unless otherwise permitted by the Engineer. No rejected material, the defects of which have been subsequently corrected, shall be used in the Work, unless approval in writing has been given by the Engineer. Upon failure of the Contractor to comply promptly with any written order of the Engineer made under the provisions in this Section 6-1.04, the Engineer shall have authority to cause the removal and replacement of rejected material and to deduct the cost thereof from any moneys due or to become due the Contractor.

6-1.05 Trade Names and Alternatives. For convenience in designation on the plans or in the specifications, certain articles or materials, to be incorporated in the Work may be designated under a

trade name or the name of a manufacturer and catalog information and followed by the words "or equal." The use of an alternative article 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 quality and suitability of alternatives shall be upon the Contractor and the Contractor shall furnish all information necessary as required by the Engineer. The Engineer shall be the sole judge as to the quality and suitability of alternative articles or materials and the Engineer's decision shall be final.

Whenever the specifications permit the substitution of a similar or equivalent material or article, no tests or action relating to the approval of such substitute material will be made until the request for substitution is made in writing by the Contractor accompanied by complete data as to the equality of the material or article proposed. Such request shall be made in ample time to permit approval without delaying the Work, but need not be made in less than 35 days after award of the Contract.

Approval by the Engineer of substitute item proposed by the Contractor shall not relieve Contractor of the responsibility for full compliance with the Contract Documents and for adequacy of the substituted item. The Contractor shall also be responsible for resultant changes and all additional costs which the substitution requires in its work, the work of Subcontractors and of other contractors and shall effect such changes without cost to the City.

6-1.05A (Blank)

6-1.06 Plant Inspection. The Engineer may inspect the production of material, or the manufacture of products at the source of supply. Plant inspection however, will not be undertaken until the Engineer is assured of full cooperation and assistance of both the Contractor and the material producer. The Engineer or the Engineer's authorized representative shall have escorted entry at mutually agreed to times to such parts of the plant as concerns the manufacture or production of the materials. Adequate facilities shall be furnished free of charge to make the necessary inspection. The City assumes no obligation to inspect materials at the source of supply.

6-1.07 Certificates of Compliance. A Certificate of Compliance shall be furnished prior to the use of any materials for which these specifications or the special provisions require that such a certificate be furnished. In addition, when so authorized in the Contract Documents, the Engineer may permit the use of certain materials or assemblies prior to sampling and testing if accompanied by a Certificate of Compliance. The certificate shall be signed by the manufacturer of the material or the manufacturer of assembled materials and shall state that the materials involved comply in all respects with the requirements of the specifications. A Certificate of Compliance shall be furnished with each lot of material delivered to the Work and the lot so certified shall be clearly identified in the certificate.

All materials used on the basis of a Certificate of Compliance may be sampled and tested at any time. The fact that material is used on the basis of a Certificate of Compliance shall not relieve the Contractor of responsibility for incorporating material in the Work which conforms to the requirements of the plans and specifications and any such material not conforming to such requirements will be subject to rejection whether in place or not.

The City reserves the right to refuse to permit the use of material on the basis of a Certificate of Compliance.

The form of the Certificate of Compliance and its disposition shall be as directed by the Engineer.

6-1.08 Foreign Materials. Materials which are manufactured, produced or fabricated outside of the United States shall be delivered to a distribution point in the San Francisco Bay Area, unless otherwise required in these specifications or the special provisions, where they shall be retained for a sufficient

period of time to permit inspection, sampling, and testing. The Contractor shall not be entitled to an extension of time for acts or events occurring outside of the United States and it shall be the Contractor's responsibility to deliver materials obtained from outside of the United States to the point of entry into the continental United States in sufficient time to permit timely delivery to the job Site.

The Contractor, as cost of the work, shall supply the facilities and arrange for any testing required in California. All testing by the Contractor shall be subject to witnessing by the Engineer.

The manufacturer, producer or fabricator of foreign material shall furnish to the Engineer a Certificate of Compliance in accordance with the provisions in Section 6-1.07, "Certificates of Compliance." In addition, certified mill test reports clearly identifiable to the lot of material shall be furnished where required in these specifications or otherwise requested by the Engineer.

If the welding of steel for structural steel members or the casting and prestressing of precast prestressed concrete members is to be performed outside of the United States, the following requirements shall apply:

1. Such fabrication shall be performed only within the plants and by fabricators who have previously established, to the satisfaction of the Engineer, that they have the experience, knowledge, trained manpower, quality controls, equipment and other facilities required to produce the quality and quantity of Work required. At the option of the Engineer, prequalification of the plant and fabricator will be established either by the submission of detailed written proof thereof or through in-plant inspection by the Engineer or the Engineer's representative, or both.
2. The Contractor shall make written application to the Engineer for approval for such foreign fabrication at the earliest possible time and, in no case, later than 50 days in advance of the planned start of fabrication. The application shall list the specific units or portion of a Work which will be fabricated outside of the United States.
3. The Contractor shall advise the Engineer, in writing, at least 20 days in advance of the actual start of any such foreign fabrication.
4. All documents pertaining to the Contract, including but not limited to, correspondence, bid documents, working drawings and data shall be written in the English language and all numerical data shall use the foot-pound-second system of units of measurement.

The use of steel manufactured outside of the United States as unidentified stock material, as provided in Section 55-2.07, "Unidentified Stock Material," will not be allowed.

6-1.09 State Specification Numbers. The State Specification number of material furnished on the Contract shall conform to the number specified in these specifications or the special provisions for the material involved, except that material conforming to a later specification issue will be acceptable.

6-1.10 (Blank)

6-1.11 Samples. All materials must be fully equal to samples previously submitted. The Contractor shall furnish to the Engineer for testing, samples of all materials proposed to be used in the Work, and also samples of completed Portland cement concrete or asphaltic concrete work. When so required by the Engineer, the Contractor shall submit for approval samples of the various materials, together with the finish thereon, as specified for that intended to be used in the Work. All materials and workmanship shall be equal in every respect to that of the samples so submitted and approved. These samples shall be sent to such place as the Engineer may direct. In all cases, freight must be prepaid by the Contractor. These samples will be returned to the Contractor, if requested, freight collect.

Where samples are called for, 2 or more samples of materials to be used in fulfilling the requirements of the specifications shall be deposited with the Engineer as soon as possible prior to their use in the Work.

No materials or equipment of which samples are required to be submitted for approval shall be used on the Work until such approval has been given by the Engineer, save only at the Contractor's risk and expense, as cost of the work.

6-2 LOCAL MATERIALS

6-2.01 General. Local material is rock, sand, gravel, earth, or other mineral material, other than local borrow or selected material, obtained or produced from sources in the vicinity of the work specifically for use on the project. Local material does not include materials obtained from established commercial sources.

Local materials shall be furnished by the Contractor from any source the Contractor may elect, except that when mandatory local material sources of certain materials are designated in the special provisions, the Contractor shall furnish material from such designated mandatory sources.

The Contractor shall be responsible for making all arrangements necessary to obtain materials from any local material source other than a mandatory local material source. If the Contractor elects to obtain materials from a possible local material source, subject to the provisions of Section 6.02, "Possible Local Material Sources," the Contractor shall comply with the requirements of said section. If the Contractor elects to obtain material from any other non-mandatory source, the Contractor shall furnish the Engineer with satisfactory evidence that the Contractor has entered into an agreement with the property owner for obtaining material from such source and with copies of any necessary permits, licenses and environmental clearances before removing any material from such sources.

The furnishing of local materials from any source is subject to the provisions in Section 6-2, "Local Materials."

Unless described in the special provisions as a mandatory local material source, or approved in writing by the Engineer, material sources shall not be excavated at locations where the resulting scars will present an unsightly appearance from any highway. No payment will be made for material obtained in violation of this provision.

The Contractor shall, as cost of the work, make any arrangements necessary for hauling over local public and private roads from any source.

When requested by the Contractor in writing, the City will test materials from any local material source, which has not been previously tested. If satisfactory material from such local source is used in the Work, the Contractor will not be charged for the costs of the tests.

In all other cases, the cost of such testing requested by the Contractor shall be at the Contractor's expense, as cost of the work and deductions will be made from any moneys due or to become due the Contractor, sufficient to cover the costs of such tests.

Full compensation for furnishing all labor, materials, tools, equipment, and incidentals, and for doing all the work involved in conforming to the provisions in this Section 6-2.01, for furnishing and producing materials from any source shall be considered as included in the cost of the work.

6-2.02 Possible Local Material Sources. Where the City has made arrangements with owners of land in the vicinity of a Project for the obtaining of material from an owner's property, Contractor may, upon written request, inspect the documents evidencing such arrangements between property owners and the City. The Contractor may, if Contractor so elects, exercise any rights that have been obtained, which may be exercised by a Contractor under such arrangements, subject to and upon the conditions hereinafter set forth.

Such arrangements are not a part of the Contract, and it is expressly understood and agreed that the City

assumes no responsibility to the bidder or Contractor whatsoever in respect to the arrangements made with the property owner to obtain materials therefrom and that the Contractor shall assume all risks in connection with the use of such property, the terms upon which such use shall be made, and there is no warranty or guaranty, either express or implied, as to the quality or quantity of materials that can be obtained or produced from such property or the type or extent of processing that may be required in order to produce material conforming to the requirements of the specifications.

In those instances in which the City has compiled "Materials Information" said compilation may include the documents setting forth the arrangement made with some of the property owners for the obtaining of material from such owners' properties. The inclusion of such documents therein shall not in any respect operate as a waiver of any of the provisions in this Section 6-2.02 concerning said documents. All necessary permits, licenses and environmental clearances needed to enable the Contractor to use a possible local material source for which the "Materials Information" compilation for the project does not include said permits, licenses and environmental clearances issued to the Department (whether or not the arrangement made by the City with the owner of the property is included in the compilation) shall be obtained by the Contractor and copies thereof shall be furnished to the Engineer before any material is removed from such source. The Contractor is cautioned to make such independent investigation and examination as the bidder or Contractor deems necessary for its satisfaction as to the quality and quantity of materials available from such property, the type and extent of processing that may be required in order to produce material conforming to the requirements of the specifications and the rights, duties and obligations acquired or undertaken under such arrangement with the property owner. Notwithstanding that the Contractor may elect to obtain materials from any such property owner's property, no material may be obtained from such property unless the Contractor has first either:

- (1) Executed a document that will guarantee to hold such owner harmless from all claims for injury to persons or damage to property resulting from the Contractor's operations on the property owner's premises and also agree to conform to all other provisions set forth in the arrangement made between the City and the property owner. Said document will be prepared by the Engineer for execution by the Contractor, or
- (2) Entered into an agreement with the owner of the material source on any terms mutually agreeable to the owner and the Contractor; provided that the Contractor shall furnish to the Engineer a release, in a form satisfactory to the Engineer, executed by the owner, relieving the City of any and all obligations under the City's arrangement with the owner.

If the Contractor elects to obtain material under (1), the use of such site shall be subject to the terms, conditions and limitations of the arrangement made between the property owner and the City, and the Contractor shall pay such charges as are provided for in the arrangement made by the City with the property owner, and deductions will be made from any moneys due or that may become due the Contractor under the Contract sufficient to cover the charges for such material removed.

If the Contractor elects to obtain material under (2), the Contractor shall pay such charges as are provided for in the agreement between the owner and the Contractor and deductions will not be made from any moneys due or that may become due the Contractor under the Contract to cover such charges.

Before acceptance of the Contract, the Engineer may require the Contractor to submit written evidence that the owner of the material source is satisfied that the Contractor has satisfactorily complied with the provisions of either (1), the arrangement between the City and the owner, or (2), the agreement between the owner and the Contractor, as the case may be.

Full compensation for furnishing all labor, materials, tools, equipment, and incidentals, and for doing all the work involved in furnishing and producing specified materials from possible local material sources, including the construction of any access roads or fences and any clearing, grubbing and stripping of

material sources, and all processing of whatever nature and extent required, shall be considered as included in the price paid for the Contract item of Work involving such material and no additional compensation will be allowed therefor.

6-2.03 Mandatory Local Material Sources. The Contractor shall perform all work required to obtain and produce acceptable materials from the mandatory local material sources designated in the special provisions, if any, and the Contractor shall have no right to obtain such materials from any other source or sources. As part of such work in producing acceptable materials from the mandatory sources, it will be necessary for the Contractor to perform certain processing of the material as set forth in the special provisions. Any processing of the material required in addition to that specified in the special provisions which, in the opinion of the Engineer, is necessary to produce acceptable material from the mandatory sources will be paid for as extra work as provided in Section 13 of the Contract.

If the Engineer determines that the designated mandatory local material source or sources are no longer to be used because they are exhausted or for other reasons, the Engineer will designate an alternative mandatory local material source or sources from which the Contractor shall obtain the balance of the material required.

In such case the City will pay the Contractor for the cost of moving the Contractor's plant to such new mandatory source and erecting it as extra work for which Contractor is entitled to a Change Order pursuant to Section 13 of the Contract. Construction of access roads, fences, clearing and grubbing or stripping of such new mandatory source, ordered in writing by the Engineer to be performed, will be paid for as extra work as provided in Section 13 of the Contract. The Department will also allow or deduct, as the case may be, the increase or decrease in haul cost due to an increase or decrease in the length of haul involved. Increased haul costs will be paid for as extra work as provided the Contract and deductions for decreased haul will be determined in the same manner. No allowance or additional compensation will be made for lost time or for delay in completing the work due to moving the Contractor's plant from the designated mandatory source to the alternative mandatory source, other than an extension of time pursuant to Section 13 of the Contract. Any processing of the material required in addition to that specified in the special provisions for the originally designated mandatory source which, in the opinion of the Engineer, is necessary to produce acceptable material from the alternative mandatory source will be paid for as extra work as provided in Section 13 of the Contract.

The Contractor will be charged the same royalty as provided in the special provisions for the original designated mandatory local material source.

The Contractor shall, prior to entering a mandatory local material source or an alternative mandatory local material source, execute a document that will guarantee to hold the owner of such property harmless from all claims for injury to persons or damage to property resulting from the Contractor's operations on the property owner's premises. Said document will be prepared by the Engineer for execution by the Contractor.

Full compensation for furnishing all labor, materials, tools, equipment, and incidentals, and for doing all the work involved in obtaining and producing specified materials from mandatory sources, including the construction of any access roads or fences and any clearing, grubbing, and stripping of mandatory local material sources, except as otherwise provided for in this Section 6-2.03, shall be considered as included in the price paid for the contract item of work involving such material and no additional compensation will be allowed therefor.

6-3 TESTING

6-3.01 General. Unless otherwise specified, all tests shall be performed in accordance with the methods used by the Department of Public Works, and shall be made by the Engineer or the Engineer's designated representative.

The City uses Caltrans and American Society for Testing and Material (ASTM) developed methods for testing the quality of materials and Work. These methods are identified by number and are referred to in the specifications as California and ASTM Tests. Copies of individual California Tests are available at the City's Material Testing Laboratory.

Whenever the specifications require compliance with specified values for the following properties, tests will be made by the California Test indicated unless otherwise specified:

Properties	California Test
Relative Compaction.....	216 or 231
Sand Equivalent.....	217
Resistance (R-value).....	301
Grading (Sieve Analysis).....	202
Durability Index.....	229

Whenever a reference is made in the specifications to a California Test by number, it shall mean the California Test in effect on the Notice to Proceed Date of the project.

Whenever the specifications provide an option between 2 or more tests, the Engineer will determine the test to be used.

Whenever a reference is made in the specifications to a specification, manual, or test designation either of the American Society for Testing and Materials, the American Association of State Highway and Transportation Officials, Federal Specifications, or any other recognized national organization, and the number or other identification representing the year of adoption or latest revision is omitted, it shall mean the specification, manual, or test designation in effect on the Notice to Proceed Date of the project.

Whenever said specification manual or test designation provides for test reports (such as certified mill test reports) from the manufacturer, copies of such reports, identified as to the lot of material, shall be furnished to the Engineer. The manufacturer's test reports shall supplement the inspection, sampling and testing provisions in Section 6, "Control of Materials," and shall not constitute a waiver of the City's right to inspect. When material which cannot be identified with specific test reports is proposed for use, the Engineer may, at the Engineer's discretion, select random samples from the lot for testing. Test specimens from the random samples, including those required for retest, shall be prepared in accordance with the referenced specification and furnished by the Contractor at the Contractor's expense, as cost of the work. The number of such samples and test specimens shall be entirely at the discretion of the Engineer. Unidentified metal products such as sheet, plate, hardware, etc. shall be subject to the requirements of Section 55-2.07, "Unidentified Stock Material."

When requested by the Engineer, the Contractor shall furnish, without and increase to the cost of the work, samples of all materials entering into the Work, and no material shall be used prior to approval by the Engineer, except as provided in Section 6-1.07, "Certificates of Compliance." Samples of material from local sources shall be taken by or in the presence of the Engineer, otherwise the samples will not be considered for testing.

6-3.02 Testing by Contractor. Contractor shall be responsible for controlling the quality of the material entering the Work and of the Work performed, and shall perform testing as necessary to ensure control. The test methods used for quality control testing shall be as determined by Contractor and shall conform to the requirements of the Contract and the approved Construction Quality Control Program. The results of the testing shall be made available to the Engineer upon request. These tests are for Contractor's use in controlling the Work and will also be used as acceptance tests in accordance with the Contract.

Full compensation for performing quality control tests and making the results available to the Engineer shall be considered as included in the Contract Price.

6-3.03 Statistical Testing. Whenever both individual test results and operating range requirements are specified in these specifications or the Special Provisions, materials shall meet both requirements. Materials used in the Work to replace materials which did not comply with requirements and were removed shall conform to the limits specified for the operating range.

Individual samples tested prior to the first use of aggregates from each source, or prior to the first use of aggregates after appreciable changes have been made in aggregate processing procedures, shall conform to the limits specified for the operating range.

If individual test results on materials used in the Work do not fall within specified limits, but the operating range utilizing such test results is within the specified operating range limits, the individual test results may be waived at the discretion of the Engineer. No test result for material used in the Work shall be omitted from the operating range determination.

Operating ranges shall be computed as follows:

Operating ranges shall be rounded to the same number of significant figures as are reported for individual test results. When the figure to be dropped is less than 5, round down; if greater than 5, round up, and if it is 5, round up or down to the even number.

Operating ranges shall be continuous for the entire Project. In determining an operating range for a material property, all of the individual test results that represent material actually used in the Work, except individual test results for portions of such material for which requirements have been revised by an executed Contract Change Order, shall be used in the calculation. The test results shall enter the calculation sequence in the chronological order that the Work is performed.

The first individual test results shall start an operating range and shall meet the operating range requirements. Until more than 4 test results are available, the operating range shall be the numerical average of the individual test results. When more than 4 test results are available, the operating range shall be determined by adding the last 4 individual test results, adding the new individual test results to this product and then dividing this sum by 5.

Where more than one source is used for a single material and the sources are not similar in all respects, a separate operating range shall be calculated for each source.

Where a single source provides material to more than one project, a separate operating range shall be calculated for each project. A single test result representing material delivered to different projects shall be used in each operating range for which it is appropriate and separate tests will not be required.

If individual test results on materials used in the Work do not fall within specified limits, but the operating range utilizing such test results is within the specified operating range limits, the individual test results may be waived at the discretion of the Engineer. No individual test result for material used in the Work shall be omitted from the operating range determination.

6-3.04 Field Tests, or Adjustments and Operations. The Contractor shall arrange for the presence of a manufacturer's representative or other qualified persons who shall instruct City operating personal in the operation and care of all the various pieces of equipment and parts of the installation as determined by the Engineer. The Contractor shall superintend the operations of the equipment during the 30-day period and shall be responsible for the proper operation thereof, and shall make no claim against the City for any damage to the equipment during such operation, or for the services of the above-mentioned representatives or other qualified persons. The Contractor shall make changes, adjustments, or replacements of equipment as may be required to make the equipment comply with the specifications, or

to replace any defective parts or material.

END OF SECTION

SECTION 7

LEGAL RELATIONS AND RESPONSIBILITY

7-1.01	Laws to be Observed
7-1.01A	Labor Code Requirements
7-1.01A(1)	City Compliance Officer
7-1.01A(2)	Working Hours
7-1.01A(3)	Prevailing Wage
7-1.01A(4)	Payroll Records
7-1.01A(5)	Employee Sign In/Sign Out
7-1.01A(6)	Discrimination Prohibited
7-1.01A(7)	Apprentices
7-1.01A(8)	Workers' Compensation
7-1.01A(9)	Certified Electricians
7-1.01A(10)	Labor Standards Enforcement
7-1.01A(11)	Subcontractors
7-1.01B	Blank
7-1.01C	Contractor's Licensing Laws
7-1.01D	Blank
7-1.01E	Trench Safety
7-1.01F	Air Pollution Control
7-1.01G	Water Pollution
7-1.01H	Use of Pesticides
7-1.01I	Sound Control Requirements
7-1.01J	Assignment of Antitrust Actions
7-1.01K	Blank
7-1.01L	Blank
7-1.01M	Prohibition of Gifts
7-1.02	Weight Limitations
7-1.03	Payment of Taxes

7-1.04	Permits and Licenses
7-1.05	Patents
7-1.06	Safety and Health Provisions
7-1.07	Blank
7-1.08	Public Convenience
7-1.09	Public Safety
7-1.10	Use of Explosives
7-1.11	Preservation of Property
7-1.12	Responsibility for Damage
7-1.121	Protection of Contractor's Work and Property
7-1.122	Blank
7-1.122A	Blank
7-1.125	Blank
7-1.13	Disposal of Material outside the Project Limits
7-1.14	Cooperation
7-1.145	Mutual Responsibility of Contractors
7-1.15	Relief from Maintenance and Responsibility
7-1.16	Blank
7-1.165	Blank
7-1.166	Blank
7-1.17	Blank
7-1.18	Property Rights in Materials Rights
7-1.19	Rights in Land and Improvements
7-1.20	Repair of Equipment
7-1.21	Material Plants
7-1.22	Blank
7-1.23	Blank
7-1.24	Blank
7-1.25	Blank
7-1.26	Blank
7-1.27	Blank

7-1.28 Blank

7-1.29 Blank

SECTION 7

LEGAL RELATIONS AND RESPONSIBILITY

7-1.01 Laws to be Observed. The Contractor shall keep fully informed of all existing and future Governmental Rules 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. The Contractor shall at all times observe and comply with, and shall cause all the Contractor's agents and employees to observe and comply with all such existing and future laws, ordinances, regulations, orders and decrees of bodies or tribunals having any jurisdiction or authority over the Work; and shall to the fullest extent allowed by law protect, defend and indemnify the City of San Jose, and all officers, employees, and agents thereof connected with the Work, including but not limited to the Engineer, against any claim or liability arising from any work performed under the Contract or based on the violation of any such law, ordinance, regulation, order, or decree, whether by the Contractor or their employees, subcontractors or suppliers at any tier unless such claim or liability arises due to the sole negligence or willful misconduct of the City, its officers, employees or agents, and as provided in the Contract. If any discrepancy or inconsistency is discovered in the plans, 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 Engineer in writing.

7-1.01A Labor Code Requirements. Attention is directed to the following requirements of the Labor Code:

7-1.01A(1) City Compliance Officer

1. **City Compliance Officer:** For purposes of this Section 7-1.01A, the "City Compliance Officer" is the Director of the Office of Equality Assurance or such other City employee as the City Manager may designate as having primary responsibility for administering and enforcing the labor standard requirements set forth in this Section 7-1.01A. The term includes the City Compliance Officer's staff and any other City employees and agents authorized to assist in the administration and enforcement of these labor standards.

2. **Contact Information:** The address of the City's Office of Equality Assurance for purposes of correspondence and inquiries is 200 East Santa Clara Street, 5th Floor, San José CA 95113-1905. The Office's phone number is 408-535-8430.

3. **Scope of Authority:** The City Compliance Office has primary responsibility for administering and enforcing the prevailing wage requirements, the payroll requirements and all other labor standards required by this Contract.

7-1.01A(2) Working Hours

The Contractor shall comply with the working-hour requirements set forth in Sections 1810 through 1815 of the California Labor Code, which are incorporated into this Contract. Working-hour requirements include, but are not limited to, the following.

1. **General Requirement:** Eight hours constitutes a legal day's work. Employees of the Contractor cannot work more than 8 hours during any one calendar day and more than 40 hours during any one calendar week.

2. **Exception:** Notwithstanding the general requirement set forth above, the Contractor may permit its employees to work more than 8 hours per calendar day and 40 hours per calendar week if the Contractor pays at least 1 ½ times the basic rate of pay for all hours worked in excess of 8 hours per day.
3. **Record Keeping:** The Contractor must keep accurate records showing the name and actual hours worked each day and each calendar week by each of its employees. The Contractor shall make the records available at all reasonable hours for inspection by the City Compliance Officer or by the Division of Labor Standards Enforcement. The Contractor's failure to make and maintain the required records is a misdemeanor.
4. **Restitution for Underpayment:** If the Contractor requires or permits an employee to work in violation of the working-hour requirements set forth in this Section 7-1.01A(2), then the Contractor shall pay the employee the difference between the amount that should have been paid and the actual amount paid.
5. **Penalties:** In addition to paying restitution for an underpayment, the Contractor shall forfeit to the City \$25 for each employee for each calendar day during which the Contractor requires or permits such employee to work in violation of the working-hour requirements set forth in this Section 7-1.01A(2).
6. **Withholding of Restitution and Penalties:** The Engineer may withhold and retain from any payments or moneys due the Contractor the following: (1) the amount of any outstanding restitution resulting from an underpayment, and (2) the amount of any penalties resulting from such underpayment. The Engineer's right to withhold and retain moneys under this provision is separate and independent from any other right to withhold and retain moneys included in this Contract.

7-1.01A(3) Prevailing Wage

The Work in this Contract is a Public Work, as that term is defined for prevailing wage purposes in Sections 1720 through 1720.6 of the California Labor Code, and is subject to the City's prevailing wage policy set forth in Chapter 14.09 of Title 14 of the San José Municipal Code, entitled "Prevailing Wage Requirements for City Contracts Involving Public Works." In accordance with Chapter 14.09, the Contractor shall comply with the prevailing wage requirements set forth in Sections 1720 through 1782 of the California Labor Code, which are incorporated into this Contract. The prevailing wage requirements with which the Contractor must comply include, but are not limited to, the following:

1. **Prevailing Wage Requirement:** The Contractor shall pay, and shall cause its subcontractors to pay, employees performing Work not less than the general prevailing rates of per diem wages, for each craft, classification and type of worker, as determined by the Director of the Department of Industrial Relations of the State of California.
2. **Project-Specific Rates:** Copies of the General Prevailing Wage Determinations made by the Director of the Department of Industrial Relations of the State of California for each craft, classification and type of worker required to perform the Work are available from the City Compliance Officer. Please direct all questions regarding prevailing wage requirements to the City Compliance Officer.
3. **Unlisted Job Classifications:** The prevailing wage rate applicable to a craft, classification or type of worker not shown on the General Prevailing Wage Determinations shall be the rate applicable to the most closely related craft, classification or type of worker. Contact the Office of Equality Assurance at (408) 535-8430 for crafts, classifications or types of workers not listed in the General Prevailing Wage Determinations.

4. **Paying Higher Wages:** The prevailing wage rates are minimum rates. The Contractor may pay workers more than the applicable prevailing wage rate. The City will not pay extra compensation based on the inability of the Contractor to hire workers at the prevailing wage rates.
5. **No Adjustments:** The City will not pay extra compensation based on increases in the prevailing wage rates during the term of the Contract.
6. **Posting Notice:** The Contractor must post at each job site at which Work is performed a sign informing employees that the City's prevailing wage requirements apply to the Work and that these requirements are enforced by the City Compliance Officer. The sign shall include the City Compliance Officer's telephone number and address. The Contractor also must post at each job site where Work is performed the General Prevailing Wage Determinations in effect for each craft, classification and type of worker employed required to perform the Work. If the Contractor fails to post the sign or General Prevailing Wage Determinations as required, the Engineer or City Compliance Officer shall have the right to do so.
7. **Restitution for Underpayment:** The Contractor, or any subcontractor of the Contractor, must pay the following amount to each employee who was paid less than the applicable prevailing wage rate during any period of time that such employee was performing Work: the difference between the applicable prevailing wage rate and the actual amount paid.
8. **Penalties:** The Contractor, and any subcontractor of the Contractor, shall forfeit up to \$200 for each calendar day, or portion thereof, for each worker paid less than the applicable prevailing wage rate. The City shall determine the amount of the penalty based on the guidelines and factors set forth in Section 1775(2) of the California Labor Code.
9. **Liability for Subcontractor's Penalties:** The Contractor is liable for any penalties resulting from the payment of less than the prevailing wage rate by one of its subcontractors unless the Contractor can clearly demonstrate to the City Compliance Officer all of the following:
 - a. The contract between the Contractor and its subcontractor for the performance of the Work included a copy of Sections 1171, 1175, 1176, 1777.5, 1813 and 1815 of the California Labor Code; and
 - b. The Contractor periodically reviewed the certified payroll records of its subcontractor for payment of the specified general prevailing rate of per diem wages; and
 - c. Upon becoming aware of the subcontractor's payment of less than the applicable prevailing wage rate, the Contractor diligently took corrective action to halt or rectify the violation, including, but not limited to, retaining sufficient funds from payments due the subcontractor for Work performed; and
 - d. Before making final payment to its subcontractor, the Contractor obtained an affidavit, signed under penalty of perjury, from the subcontractor stating that the subcontractor paid each of its workers not less than the applicable general prevailing rate of per diem wages and any amounts due pursuant to Section 1813 of the California Labor Code.
10. **Withholding:** The Engineer may withhold and retain from payments or moneys due the Contractor the following: (1) the amount of any outstanding restitution resulting from an underpayment, (2) penalties resulting from such underpayment, and (3) any amounts required to satisfy any civil wage and penalty assessment issued by the California Labor Commission in accordance with the California Labor Code. The Engineer's right to withhold under this provision is separate and independent from any other right to withhold moneys included in this Contract.

11. **Notice of Withholding:** The City Compliance Officer will provide written notice to the Contractor and subcontractor, if applicable, of any withholding resulting from a prevailing wage violation. The notice will describe the nature of the violation, the amount of wages, penalties and forfeitures withheld, and the procedure for obtaining review of the withholding.
 - a. **Service of Notice:** The City Compliance Officer will serve the notice by first-class and certified mail, in a sealed envelope, with postage prepaid, addressed to the person on whom it is to be served, at the office address last given for that person.
 - b. **Service on Surety:** The City Compliance Officer will also serve a copy of the notice by certified mail to the surety that issued the payment and performance bonds for the Contract.
 - c. **Appeal of Withholding:** In accordance with Section 1771.6 of the California Labor Code, the Contractor or the affected subcontractor may seek review of the City's withholding by transmitting a written request for review to the Office of the Labor Commissioner for the State of California. The Contractor or the affected subcontractor shall transmit a copy of the written request for review to the City Compliance Officer.
 - d. **Time to Appeal Withholding:** In accordance with Section 1742 of the California Labor Code, a written request to review a notice of withholding must be transmitted to the Office of the Labor Commissioner for the State of California within 60 calendar days after service of the notice. If review is not requested within 60 calendar days, then the City Compliance Officer's determination is final.
12. **Attachment 5:** The Contractor is directed to review Attachment 5 of the Bid Documents for further information regarding prevailing wage requirements applicable to this Contract.

7-1.01A(4) Payroll Records

The Contractor and each of its subcontractors shall make and keep payroll records in accordance with Section 1776 of the California Labor Code and with this Section 7-1.01A(3), both of which are incorporated into this Contract. The requirements to make and keep payroll records are as follows:

1. **General Requirement:** The Contractor and its subcontractors must keep accurate payroll records. For each journey-man, apprentice, worker, or other employee performing Work, the payroll records must show the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages.
2. **Form of Payroll Records:** The Contractor and its subcontractors must prepare the payroll records on forms provided by the Division of Labor Standards Enforcement for the State of California on forms containing the same information as the forms provided by the Division of Labor Standards Enforcement. The Contractor and subcontractor shall obtain the approval of the City Compliance Officer before using any form other than one provided by the Division of Labor Standards Enforcement.
3. **Location of Payroll Records:** Within 10 working days of starting Work, the Contractor shall inform the City Compliance Officer of the location of all payroll records, including the street address, city, and county. Within 5 working days of changing the location of the payroll records, the Contractor shall notify the City Compliance Officer of the new location.
4. **Submission of Payroll Records with Progress Payment:** In accordance with Section 9-1.06A of the Special Provisions, entitled "Application for Progress Payment," the Contractor must submit the payroll records of its employees and those of its subcontractor(s) to the City with each application for

progress payment. The payroll records submitted to the City shall meet all of the requirements set forth in this Section 7-1.01A(3).

a. **Verification/Certification:** The payroll records submitted to the City must be both verified, and the copies certified, by the Contractor or subcontractor that prepared the record. The verification must be a written declaration, made under penalty of perjury, stating the following: (1) the information contained in the payroll record is true and correct, and (2) the Contractor or subcontractor has complied with the requirements of Sections 1771, 1811 and 1815 for Work performed by its employees.

b. **Condition Precedent to Payment:** As set forth in Section 9-1.06A of the Special Provisions, the submission of verified and certified payroll records with each application for progress payment is an *express condition precedent* to the City's obligation to make a progress payment. An application for progress payment is incomplete in the absence of verified and certified payroll records, and the Engineer is not obligated to approve or make, in whole or in part, any progress payment due the Contractor until the Contractor has submitted the required payroll records.

5. **Written Request for Payroll Records:** The Contractor or subcontractor must provide verified and certified payroll records to the City Compliance Officer on or before 10 working days following receipt of the written request for such records by the City Compliance Officer.

a. **Penalties:** If the Contractor or subcontractor fails to timely comply with the request, then the Contractor or subcontractor, whichever one failed to provide the records, shall pay a penalty to the City of \$100 for each calendar day, or portion thereof, for each worker, until the records are provided. The Contractor is not liable for a penalty imposed as a result of a subcontractor's failure to comply with the City's written request for payroll records.

b. **Withholding:** The Engineer may withhold and retain from payments or moneys due the Contractor the amount of any penalties imposed based on a failure to timely respond to the City's written request for payroll records. The Engineer's right to withhold under this provision is separate and independent from any other right to withhold moneys included in this Contract.

6. **Inspection of Records by Employee:** A verified and certified copy of an employee's pay record shall be made available, on request, for inspection or given to the employee or the employee's authorized representative. The records shall be available at all reasonable hours at the principal office of the contractor.

7. **Inspection of Records by Department:** A verified and certified copy of all payroll records shall be made available, upon request, for inspection or furnished to the City Compliance Officer and the Division of Labor Standards Enforcement of the Department of Industrial Relations. The records shall be available at all reasonable hours at the principal office of the contractor.

7-1.01A(5) Employee Sign In/Sign out

The Contractor shall maintain a sign-in and sign-out sheet showing which employees are present on the job site. The Contractor shall establish procedures so that all employees sign in and out of the job site. The Contractor shall provide, upon request, a copy of the sign-in and sign-out sheet to the City Compliance Officer and to any employee or the employee's authorized representative.

7-1.01A(6) Discrimination Prohibited

1. **Labor Code Prohibition:** The Contractor must comply with, and is subject to, the employment non-discrimination requirements set forth in Section 1735 of the California Labor Code, which is incorporated into this Contract.
2. **City Prohibition:** The Contractor also must comply with, and is subject to, the nondiscrimination/nonpreference requirements set forth in Chapter 4.08 of Chapter 4 of the San José Municipal Code, entitled “Nondiscrimination Requirements for Contracts,” which is incorporated into this Contract.
 - a. **Attachment 1 of Contract:** The nondiscrimination/nonpreference requirements set forth in Attachment 1 of this Contract implement, in part, the requirements of Chapter 4.08. The Contractor shall comply with the requirements set forth in Attachment 1.
 - b. **Subcontractors:** The Contractor shall include the same provisions in Attachment 1 in every subcontract entered into in furtherance of the Contract so that such provisions are binding on each subcontractor.

7-1.01A(7) Apprentices

1. **Compliance:** The Contractor and its subcontractors shall comply with the requirements of the State Apprenticeship Program, as set forth in Section 1777.5 and Chapter 4 of division 3 of the California Labor Code (starting at Section 3070), which collectively are incorporated into this Contract. The Contractor is solely responsible for securing compliance with Section 1777.5 for all apprenticeable occupations.
2. **Subcontracts:** The Contractor shall include in all of its subcontracts the obligation for subcontractors to comply with the requirements of the State Apprenticeship Program.
3. **Evidence of Compliance:** The Contractor shall comply promptly with all requests of the City Compliance Officer for documentation that the Contractor and its subcontractors are in compliance with the State Apprenticeship Program.
4. **Penalties:** The Contractor is subject to the penalties set forth in Section 1777.7 of the California Labor Code for a failure to comply with the requirements of Section 1777.5. Section 1777.7 is incorporated into this Contract.
5. **Withholding:** The Engineer may withhold and retain from payments or moneys due the Contractor the amount of any penalties imposed based on a violation of Section 1777.5 of the California Labor Code. The Engineer’s right to withhold under this provision is separate and independent from any other right to withhold moneys included in this Contract.

7-1.01A(8) Workers’ Compensation

1. **Requirement:** The Contractor shall secure worker’s compensation for all of its employees in accordance with Section 3700 of the California Labor Code. By signing the Contract, the Contractor is certifying and filing with the City the following:

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

2. **Prohibition:** The Contractor is prohibited from performing Work if at the time of such Work the Contractor is not in compliance with Section 3700 of the California Labor Code. The Contractor must not allow a subcontractor to perform Work if at the time of such Work the subcontractor is not in compliance with Section 3700 of the California Labor Code.

3. **Proof of Compliance:** Before starting any Work, the Contractor shall provide the Engineer with one of the following: (1) satisfactory proof that it is properly insured by one or more insurers authorized to write worker's compensation insurance in California, or (2) a valid certificate of consent to self-insure issued by the Director of Industrial Relations for the State of California.

a. **Maintaining Compliance:** The Contractor shall maintain such insurance or certificate of consent to self-insure for the term of the Contract.

b. **Requests for Proof of Compliance:** Upon the request of the Engineer at any time during the term of the Contract, the Contractor must provide satisfactory proof that it is in compliance with Section 3700 of the California Labor Code.

4. **Failure to Comply:** The Contractor's failure to comply promptly with a request by the Engineer for proof of compliance with Section 3700 of the California Labor Code, or the Contractor's failure to be in compliance with Section 3700, is a material breach of this Contract. Such breach is a basis for the Engineer to suspend Work in accordance with Section 8-1.05 of these Specifications. The Contractor is responsible for all costs and damages resulting from any such suspension of Work.

5. **Withhold:** If any injury occurs to any employee of the Contractor for which the employee, or the employee's dependents, is entitled to compensation from the City under the California Labor Code provisions applicable to worker's compensation, the Engineer may withhold and retain from any moneys due the Contractor an amount sufficient to cover such compensation.

6. **Subcontractors:** The Contractor shall include in all of its subcontracts the obligation for subcontractors to comply with the requirements of this Section 7-1.01A(8).

7-1.01A(9) Certified Electricians

The Contractor must use, and must cause its subcontractor(s) to use, properly certified persons to perform any Work as electricians in accordance with Chapter 4.5 of Division 1 of the California Labor Code, entitled "Electrician Certification" (Sections 108 – 108.5).

7-1.01A(10) Labor Standards Enforcement

1. **Cooperation:** The Contractor and its subcontractors shall cooperate fully with the City Compliance Officer as part of any action by the City Compliance Officer to administer and/or enforce the labor standards set forth in this Section 7-1.01A.

2. **Inspections:** The Contractor and its subcontractors agree that the City Compliance Officer has the following rights in the performance of the Officer's duties: (1) to engage in random inspections of job sites, (2) to have access to the employees performing Work, and (3) to have access to employee time sheets, inspection logs, payroll records, paychecks and any other documents reasonably related to an appropriate investigation of the Contractor's and subcontractor's compliance with the labor standards set forth in this Section 7-1.01A.

3. **Audit:** The City Compliance Officer may audit such records of the Contractor and its subcontractors as the Officer deems necessary to determine compliance with the labor standards set forth in this Section 7-1.01A.

7-1.01A(11) Subcontractors

Notwithstanding anything to the contrary, the prevailing wage requirements, payroll record requirements and all other labor standard requirements set forth in this Section 7-1.01A are applicable to every subcontractor engaged by the Contractor to perform Work. The Contractor shall include in every such subcontract the following provision(s): (1) an agreement from the subcontractor that it is subject to each of the labor standard requirements set forth in this Section 7-1.01A, (2) an agreement from the subcontractor that it will comply with each of the labor standard requirements, and (3) an agreement from the subcontractor that the City Compliance Officer can enforce each of the labor standard requirements against the subcontractor to the same extent it can enforce the provisions against the Contractor.

7-1.01B (Blank)

7-1.01C Contractor's Licensing Laws. Attention is directed to the provisions of Chapter 9 of Division 3 of the Business and Professions Code concerning the licensing of contractors.

All bidders and contractors shall be licensed in accordance with the laws of this State and any bidder or contractor not so licensed is subject to the penalties imposed by such laws.

In all City projects where federal funds are involved, no bid submitted shall be invalidated by the failure of the bidder to be licensed at the time of bid in accordance with the laws of this state. At the time a federally funded contract is awarded, the Contractor shall be properly licensed in accordance with the laws of the State of California at the time the contract is awarded.

The first payment for work or material under any contract shall not be made by the City unless and until the Registrar of Contractors certifies to the City that the records of the Contractors State License Board indicate that the Contractor was properly licensed at the time the contract was awarded. Any bidder or contractor not so licensed shall be subject to all legal penalties imposed by law, including, but not limited to, any appropriate disciplinary action by the Contractors State License Board. 7-1.01D Vehicle Code. Pursuant to the authority contained in Vehicle Code Section 591, the City has determined that within such areas as are within the limits of the Project and are open to public traffic, Contractor shall comply with all the requirements set forth in Divisions 11, 12, 13, 14 and 15 of the Vehicle Code.

Attention is directed to the statement in said Section 591 that this section shall not relieve the Contractor or any person from the duty of exercising due care. The Contractor shall take all necessary precautions for safe operation of Contractor's equipment and the protection of the public from injury and damage from such equipment.

7-1.01D Blank

7-1.01E Trench Safety. Attention is directed to the provisions of Section 6705 of the Labor Code concerning trench excavation safety plans.

7-1.01F Air Pollution Control. The Contractor shall comply with all air pollution control rules, regulations, ordinances and statutes which apply to any work performed pursuant to the Contract, including any air pollution control rules, regulations, ordinances and statutes.

Unless otherwise provided in the special provisions, material to be disposed of shall not be burned, either inside or outside the Project right of way.

7-1.01G Water Pollution. The Contractor shall exercise every reasonable precaution to protect streams, lakes, reservoirs, bays, and coastal waters from pollution with fuels, oils, bitumens, calcium chloride and other harmful materials and shall conduct and schedule their operations so as to avoid or minimize muddying and silting of said streams, lakes, reservoirs, bays and coastal waters. Care shall be exercised to preserve roadside vegetation beyond the limits of construction.

Water pollution control work is intended to provide prevention, control, and abatement of water pollution to streams, waterways, and other bodies of water, and shall consist of constructing those facilities required by the Contract Documents.

In order to provide effective and continuous control of water pollution, it may be necessary for the Contractor to perform the Contract Work in small or multiple units, on an out of phase schedule, and with modified construction procedures. The Contractor shall provide temporary water pollution control measures, including but not limited to, dikes, basins, ditches, and applying straw and seed, which become necessary as a result of the Contractor's operations. The Contractor shall coordinate water pollution control work with all other Work done on the Contract.

Before starting any construction Work on the Project, the Contractor shall submit, for acceptance by the Engineer, a program to control water pollution effectively during construction of the Project. Such program shall show the schedule for the erosion control work included in the Contract and for all water pollution control measures which the Contractor proposes to take in connection with construction of the Project to minimize the effects of their operations upon adjacent streams and other bodies of water. The Contractor shall not perform any clearing and grubbing or earthwork on the Project, other than that specifically authorized in writing by the Engineer, until such program has been accepted.

If the measures being taken by the Contractor are inadequate to control water pollution effectively, the Engineer may direct the Contractor to revise the operations and the water pollution control program. Such directions will be in writing and will specify the items of work for which the Contractor's water pollution control measures are inadequate. No further Work shall be performed on said items until the water pollution control measures are adequate and, if also required, a revised water pollution control program has been accepted.

The City will not be liable to the Contractor for failure to accept all or any portion of an originally submitted or revised water pollution control program, nor for any delays to the Work due to the Contractor's failure to submit an acceptable water pollution control program.

The Contractor may request the Engineer to waive the requirement for submission of a written program for control of water pollution when the nature of the Contractor's operation is such that erosion is not likely to occur. Waiver of this requirement will not relieve the Contractor from responsibility for compliance with the other provisions of this section. Waiver of the requirement for a written program for control of water pollution will not preclude requiring submittal of a written program at a later time if the Engineer deems it necessary because of the effect of the Contractor's operations.

Unless otherwise approved by the Engineer in writing, the Contractor shall not expose a total area of erodible earth material, which may cause water pollution, exceeding 750,000 square feet for each separate location, operation, or spread of equipment before either temporary or permanent erosion control measures are accomplished.

Where erosion which will cause water pollution is probable due to the nature of the material or the season of the year, the Contractor's operations shall be so scheduled that permanent erosion control features will be installed concurrently with or immediately following grading operations.

Nothing in the terms of the Contract nor in the provisions in this Section 7-1.01G shall relieve the Contractor of the responsibility for compliance with Sections 5650 and 12015 of the Fish and Game Code, or other applicable statutes relating to prevention or abatement of water pollution.

When borrow material is obtained from other than commercially operated sources, erosion of the borrow site during and after completion of the work shall not result in water pollution. The material source shall be finished, where practicable, so that water will not collect or stand therein.

The requirements of this section shall apply to all work performed under the contract and to all non-commercially operated borrow or disposal sites used for the project.

The Contractor shall also conform to the following provisions:

1. Where working areas encroach on live streams, barriers adequate to prevent the flow of muddy water into streams shall be constructed and maintained between working areas and streams, and during construction of such barriers, muddying of streams shall be held to a minimum.
2. Removal of material from beneath a flowing stream shall not be commenced until adequate means, such as a bypass channel, are provided to carry the stream free from mud or silt around the removal operations.
3. Should the Contractor's operations require transportation of materials across live streams, such operations shall be conducted without muddying the stream. Mechanized equipment shall not be operated in the stream channels of such live streams except as may be necessary to construct crossings or barriers and fills at channel changes.
4. Water containing mud or silt from aggregate washing or other operations shall be treated by filtration, or retention in a settling pond, or ponds, adequate to prevent muddy water from entering live streams.
5. Oily or greasy substances originating from the Contractor's operations shall not be allowed to enter or be placed where they will later enter a live stream.
6. Portland cement or fresh Portland cement concrete shall not be allowed to enter flowing Water of streams.
7. When operations are completed, the flow of streams shall be returned as nearly as possible to a meandering thread without creating possible future bank erosion, and settling pond sites shall be graded so they will drain and will blend in with the surrounding terrain.
8. Material derived from roadway work shall not be deposited in a live stream channel where it could be washed away by high stream flows.
9. Where there is possible migration of anadromous fish in streams affected by construction on the project, the Contractor shall conduct their operations so as to allow free passage of such migratory fish.

Compliance with the requirements of this section shall in no way relieve the Contractor from their responsibility to comply with the other provisions of the Contract, in particular the Contractor's responsibility for damage and for preservation of property.

Full compensation for conforming to the requirements of this section shall be considered as included in the prices paid for the various items of work and no additional compensation will be allowed therefor.

7-1.01H Use of Pesticides. The Contractor shall comply with all rules and regulations of the State of California, Department of Food and Agriculture, the State of California. Department of Health, the State of California, Department of Industrial Relations and all other agencies which govern the use of pesticides required in the performance of the Work on the Contract.

Pesticides shall include but shall not be limited to herbicides, insecticides, fungicides, rodenticides, germicides, nematocides, bactericides, inhibitors, fumigants, defoliant, desiccants, soil sterilants, and repellents.

Any substance or mixture of substances intended for preventing repelling, mitigating, or destroying weeds, insects, diseases, rodents, or nematodes and any substance or mixture of substances intended for

use as plant regulator, defoliant or desiccant shall be considered a pesticide.

7-1.01I Sound Control Requirements. The Contractor shall minimize noise and comply with all local sound control and noise level rules, regulations and ordinances which apply to any Work performed pursuant to the Contract.

Each internal combustion engine, used for any purpose on the job or related to the job, shall be equipped with a muffler of a type recommended by the manufacturer. No internal combustion engine shall be operated on the project without said muffler.

7-1.01J Assignment of Antitrust Actions. The Contractor's attention is directed to the following provisions of Government Code Sections 4553, and 4554 which shall be applicable to the Contractor and subcontractors:

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

If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery:

Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action."

7-1.01K (Blank)

7-1.01L (Blank)

7-1.01M Prohibition of Gifts. Pursuant to Chapter 10.36, Part 5, "Prohibition of Gifts and Certain Contributions" of the City Municipal Code, the Contractor shall be familiar with the City's prohibition against acceptance of any gift by a City officer or designated employee. Said prohibition is found in Chapter 10.36 of the San Jose Municipal Code.

The Contractor agrees not to offer any City officer or designated employee any gift prohibited by said Chapter.

The offer or giving of any gift prohibited by Chapter 10.36 shall constitute a material breach of this Contract by Contractor. In addition to any other remedies City may have in law or equity, City may terminate for cause this Contract for such breach as provided elsewhere in the Contract Documents.

7-1.02 Weight Limitations. Unless expressly permitted in the special provisions, construction equipment or vehicles of any kind which, laden or unladen, exceed the maximum weight limitations set forth in Division 15 of the Vehicle Code, shall not be operated over completed or existing treated bases, surfacing, pavement or structures in any areas within the limits of the project, whether or not such area is

subject to weight limitations under Section 7-1.01D, "Vehicle Code," except as hereinafter provided in this Section 7-1.02.

After application of the curing seal, no traffic or Contractor's equipment will be permitted on cement treated base or lean concrete base for a period of 72 hours. After 72 hours, traffic and equipment operated on the base shall be limited to that used in paving operations and placing additional layers of cement treated base. No traffic or Contractor's equipment will be permitted on treated permeable base except for that equipment required to place the permeable base and the subsequent layer of pavement. Trucks used to haul treated base, Portland cement concrete, or asphalt concrete shall enter onto the base to dump at the nearest practical entry point ahead of spreading equipment. Empty haul trucks shall exit from the base at the nearest practical exit point. Entry and exit points shall not be more than 1,000 feet ahead of spreading equipment except in locations where specifications prohibit operation of trucks outside the area occupied by the base or where steep slopes or other conditions preclude safe operation of hauling equipment. In such locations, entry and exit points shall be established at the nearest point ahead of spreading equipment permitted by specifications and allowing safe operation of hauling equipment. Damage to curing seal or base shall be repaired promptly by the Contractor at the Contractor's expense, as cost of the work, as directed by the Engineer.

Within the limits of the Project and subject to the control of the Engineer, and provided that the Contractor at the Contractor's expense, as cost of the work shall provide such protective measures as are deemed necessary by the Engineer and shall repair any damage caused by such operations, the Contractor will be permitted to:

- (1) Make transverse crossings of such portions of an existing public road or street as are within the highway right of way, with construction equipment which exceeds the size or weight limitations set forth in Division 15 of the Vehicle Code.
- (2) Make transverse crossings of treated bases, surfacing, or pavement which are under construction or which have been completed, with construction equipment which exceeds the size or weight limitations set forth in Division 15 of the Vehicle Code.
- (3) Cross bridge structures that are not open to public traffic and which are designed for HS20-44 Live Loading (culverts and pipes excluded), with construction equipment which exceeds the size or weight limitations set forth in Division 15 of the Vehicle Code, but not exceeding the weight limitations hereinafter specified, provided that the Contractor furnishes to the Engineer the dimensions and maximum axle loadings of equipment proposed for use on bridge structures:
 - (a) The maximum loading on bridge structures due to pneumatic-tired truck and trailer combinations shall not exceed (1) 28,000 pounds for single axles, (2) 48,000 pounds for tandem axles, nor (3) 60,000 pounds total gross load for single vehicles or 110,000 pounds total gross load for truck and trailer or semi-trailer combinations.
 - (b) The loading on bridge structures due to 2 and 3 axle pneumatic-tired earth movers shall not exceed that shown in the following table.

**ALLOWABLE CONSTRUCTION LOADING ON BRIDGES
FOR 2 AND 3 AXLE EARTH MOVERS**

Spacing of Bridge Girders (center to center in feet)	Maximum Axle Loading (in pounds)
4	28,000

5	29,000
6	30,000
7	32,000
8	34,000
9	37,000
10' and over	40,000

Minimum axle spacing:

For 3-axle earth movers

Axles 1 to 2 = 8 feet

Axles 2 to 3 = 20 feet

For 2-axle earth movers

Axles 1 to 2 = 20 feet

(4) Move equipment within the limits of the project over completed or existing be, surfacing, pavement, and structures, whether or not open to the public, in accordance with the limitations and conditions established by the Engineer.

Within the limits of the Project and subject to the condition that the Contractor shall repair, at the Contractor's expense, as cost of the work, any damage caused thereby, the Contractor will be permitted to cross culverts and pipes with construction equipment which exceeds the size or weight limitations set forth in Division 15 of the Vehicle Code in accordance with the conditions set forth on the plans. If such conditions are not set forth on the plans, the provisions in the first paragraph in this Section 7-1.02 will apply.

Should the Contractor desire to increase the load carrying capacity of a structure or structures which are to be constructed as a part of the Contract, in order to facilitate Contractor's own operations, the Contractor may request the Engineer to consider redesigning the structure or structures. Proposals by the Contractor to increase the load carrying capacity of structures above 130,000 pounds per single axle or pair of axles less than 8 feet apart, or above 330,000 pounds total gross vehicle weight, will not be approved. The request shall include a description of the structure or structures involved and a detailed description of the overloads to be carried, the date the revised plans would be required, and a statement that the Contractor agrees to pay all costs involved in the strengthening of the structure or structures, including the cost of revised plans, and further that the Contractor agrees that no extension of time will be allowed by reason of any delay to the work which may be due to the alteration of the structure or structures. If the Engineer determines that strengthening the structure or structures will be permitted, the Engineer will inform the Contractor of the estimated cost of the alterations, including engineering, and the date that revised plans could be furnished. If the cost and date are satisfactory to the Contractor, the Engineer will prepare a change order providing for the agreed upon alterations and payment to the City.

7-1.03 Payment of Taxes. The Contract Price paid for the Work shall include full compensation for all taxes which the Contractor is required to pay, whether imposed by Federal, State or local government, including, without being limited to, Federal excise tax. No tax exemption certificate nor any document designed to exempt the Contractor from payment of any tax will be furnished to the Contractor by the City, as to any tax on labor, services, materials, transportation, or any other items furnished pursuant to the Contract.

In the event that Contractor will purchase from vendors or suppliers outside the State of California

materials, machinery, tools, fixtures, or equipment totaling in excess of \$1 million for the Work, Contractor shall, prior to commencing the Work, obtain a sub-permit of its seller's permit designating the address in the City of San Jose where the Work is being performed as the jobsite using the State of California Board of Equalization form BOE-530 (Schedule C- Detailed Allocation by Suboutlet of Combined State and Uniform Local Sales and Use Tax). Contractor shall include this provision in all of its construction subcontracts for the project.

7-1.04 Permits and Licenses. The Contractor shall procure all permits and licenses, pay all charges and fees as cost of the work, and give all notices necessary and incident to the due and lawful prosecution of the work in sufficient time to prevent delays to the work.

The Environmental Quality Act (Public Resources Code, Sections 21000 to 21176, inclusive) may be applicable to permits, licenses and other authorizations which the Contractor must obtain from local agencies in connection with performing the Work of the Contract. The Contractor shall comply with the provisions of said statutes in obtaining such permits, licenses and other authorizations and they shall be obtained in sufficient time to prevent delays to the work.

In the event that the City has obtained permits, licenses or other authorizations, applicable to the work, the Contractor shall comply with the provisions of said permits, licenses and other authorizations.

The Contractor shall defend, indemnify, and hold harmless the City, its employees, and its agents from all legal claims, losses, actions in law or equity civil and/or criminal, arising from any and all acts, omissions, or negligence of the Contractor in violation of any permit or license issued.

7-1.05 Patents. The Contractor shall assume all costs arising from the use of patented materials, equipment, devices, or processes used on or incorporated in the Work, and agrees to indemnify and hold harmless the City, its employees, duly authorized agents and duly authorized representatives, from all suits at law, or actions of every nature for, or on account of the use of any patented materials, equipment, devices, or processes as provided in the Contract.

7-1.06 Safety and Health Provisions. The Contractor shall conform to all applicable occupational safety and health standards, rules, regulations and orders established by the Federal Government, State of California, County of Santa Clara and the City of San Jose or any other government agency of competent jurisdiction.

All working areas utilized by the Contractor to perform Work during the hours of darkness, shall be lighted to conform to the minimum illumination intensities established by California Division of Occupational Safety and Health Construction Safety Orders.

All lighting fixtures shall be mounted and directed in a manner precluding glare to approaching traffic.

Full compensation for conforming to the requirements of this section shall be considered as included in the Contract prices paid for the various items of Work involved and no separate payment will be made therefor.

7-1.07 (Blank)

7-1.08 Public Convenience. This Section 7-1.08 defines the Contractor's responsibility with regard to convenience of the public and public traffic in connection with the Contractor's operations.

Attention is directed to Section 4-1.04, "Detours," for provisions relating to the passage of traffic around the work over detours.

Attention is directed to Section 7-1.09, "Public Safety," for provisions relating to the Contractor's responsibility for the safety of the public. The requirements in said Section 7-1.09 are in addition to the requirements of this Section 7-1.08 and the Contractor will not be relieved of any responsibilities as set

forth in said Section 7-1.09 by reason of conformance with any of the provisions in this Section 7-1.08.

Attention is directed to Section 12, "Construction Area Traffic Control Devices," for requirements concerning flagging and traffic-handling equipment and devices used in carrying out the provisions of this Section 7-1.08 and said Section 7-1.09.

In the event of a suspension of the work, attention is directed to Contract Section 14. The Contractor shall so conduct operations as to offer the least possible obstruction and inconvenience to the public and shall have under construction no greater length or amount of work than can be prosecuted properly with due regard to the rights of the public.

Unless otherwise provided in the Contract Documents, all public traffic shall be permitted to pass through the Work with as little inconvenience and delay as possible. Where possible such traffic shall be routed on new or existing paved surfaces.

Spillage resulting from hauling operations along or across any public traveled way shall be removed immediately by the Contractor at the Contractor's expense, as cost of the work.

Existing traffic signals and highway lighting shall be kept in operation for the benefit of the traveling public during progress of the Work, and other forces will continue routine maintenance of existing systems.

Construction operations shall be conducted in such a manner as to cause as little inconvenience as possible to abutting property owners.

Convenient access to driveways, houses, and buildings along the line of the Work shall be maintained and temporary approaches to crossings or intersecting highways shall be provided and kept in good condition. When the abutting property owner's access across the right of way line is to be eliminated, or to be replaced under the Contract by other access facilities, the existing access shall not be closed until the replacement access facilities are usable.

The Contractor may be required to cover certain signs which regulate or direct public traffic to roadways that are not open to traffic. The Engineer will determine which signs shall be covered. Excavation and the construction of embankments shall be conducted in such manner as to provide a reasonably smooth and even surface satisfactory for use by public traffic at all times: sufficient fill at culverts and bridges to permit traffic to cross shall be placed in advance of other grading operations, and if ordered by the Engineer in writing roadway cuts shall be excavated in lifts and embankments constructed part width at a time, construction being alternated from one side to the other and traffic routed over the side opposite the one under construction. Culvert installation or culvert construction shall be conducted on but one-half the width of the traveled way at a time and that portion of the traveled way being used by public traffic shall be kept open and unobstructed until the opposite side of the traveled way is ready for use by traffic.

Upon completion of rough grading at the grading plane, or placing any subsequent layer thereon, the surface of the roadbed shall be brought to a smooth, even condition free of humps and depressions, satisfactory for the use of public traffic.

After subgrade preparation for a specified layer of material has been completed, the Contractor shall, at the Contractor's expense, as cost of the work, repair any damage to the roadbed or completed subgrade, including damage caused by the Contractor's operations or use by public traffic.

While subgrade and paving operations are underway, public traffic shall be permitted to use the shoulders and, if half-width paving methods are used, shall also be permitted to use the side of the roadbed opposite the one under construction. When sufficient width is available, a passageway wide enough to accommodate at least 2lanes of traffic shall be kept open at locations where subgrade and paving operations are in active progress.

Upon written order by the Engineer, the Contractor shall furnish a pilot car and driver and flaggers for the purpose of expediting the passage of public traffic through the Work under one-way controls. At locations where traffic is being routed through construction under one-way controls and when ordered by the Engineer in writing, the movement of the Contractor's equipment from one portion of the Work to another shall be governed in accordance with such one-way controls.

Water or dust palliative shall be applied if ordered in writing by the Engineer for the alleviation or prevention of dust nuisance as provided in Section 10, "Dust Control."

In order to expedite the passage of public traffic through or around the work and where ordered in writing by the Engineer, the Contractor shall install signs, lights, flares, temporary railing (Type K), barricades, and other facilities for the sole convenience and direction of public traffic. Also where directed by the Engineer, the Contractor shall furnish competent flaggers whose sole duties shall consist of directing the movement of public traffic through or around the work.

Whenever a section of surfacing, pavement, or the deck of a structure has been completed, the Contractor shall open it to use by public traffic if the Engineer so orders in writing or may open it to use by public traffic if the Engineer so consents. In either case, the Contractor will not be allowed any compensation due to any delay, hindrance, or inconvenience to the Contractor's operations caused by such public traffic, but will thereupon be relieved of responsibility for damage to completed permanent facilities caused by public traffic, within the limits of such use. The Contractor will not be relieved of any other responsibility under the contract nor will the Contractor be relieved of cleanup and finishing operations.

Full compensation for conforming to the requirements in this Section 7-1.08 and in the special provisions shall be considered as included in the Contract Price.

7-1.09 Public Safety. It is the Contractor's responsibility to provide for the safety of traffic and the public during construction.

Attention is directed to the insurance and indemnification requirements in Sections 9 and 18 of the Design-Build Contract. Attention is directed to Section 7-1.08, "Public Convenience," for provisions relating to the Contractor's responsibility for providing for the convenience of the public in connection with the Contractor's operations.

Attention is directed to Section 12, "Construction Area Traffic Control Devices," for requirements concerning flagging and traffic-handling equipment and devices used in carrying out the provisions of said Section 7-1.08 and this Section 7-1.09.

Whenever the Contractor's operations create a condition hazardous to traffic or to the public, the Contractor shall, at the Contractor's expense, as cost of the work, furnish, erect and maintain such fences, temporary railing (Type K), barricades, lights, signs and other devices and take such other protective measures as are necessary to prevent accidents or damage or injury to the public.

Such fences, temporary railing (Type K), barricades, lights, signs, and other devices furnished, erected and maintained by the Contractor, as cost of the work, are in addition to any construction area traffic control devices for which payment is provided for elsewhere in the specifications.

The Contractor shall also furnish such flaggers as are necessary to give adequate warning to traffic or to the public of any dangerous conditions to be encountered.

Signs, lights, flags, and other warning and safety devices and their use shall conform to the requirements set forth in the current Caltrans Manual of Traffic Controls. Signs or other protective devices furnished and erected by the Contractor at the Contractor's expense, as cost of the work, as above provided, shall not obscure the visibility of, nor conflict in intent, meaning and function of either existing signs, lights and traffic control devices or any construction area signs and traffic control devices for which furnishing

of, or payment for, is provided elsewhere in the specifications. Signs furnished and erected by the Contractor at the Contractor's expense, as cost of the work shall be approved by the Engineer as to size, wording and location.

The installation of general roadway illumination shall not relieve the Contractor of any responsibility for furnishing and maintaining any of the protective facilities hereinbefore specified.

Construction equipment shall enter and leave the highway via existing ramps and crossovers and shall move in the direction of public traffic. All movements of workers and construction equipment on or across lanes onto public traffic shall be performed in a manner that will not endanger public traffic.

The Contractor's trucks or other mobile equipment which leave a freeway lane, that is on to public traffic, to enter the construction area, shall slow down gradually in advance of the location of the turnoff to give following public traffic an opportunity to slow down.

When leaving a Work area and entering a roadway carrying public traffic, the Contractor's equipment, whether empty or loaded, shall in all cases yield to public traffic.

Lanes, ramps, and shoulders shall be closed in accordance with the details shown on the plans, the provisions of Section 12, "Construction Area Traffic Control Devices," and as provided in the Contract Documents.

The Contractor shall notify the Engineer not less than 15 days before the anticipated start of each falsework and girder erection operation whenever the falsework or girders will reduce clearances available to public traffic.

Pedestrian openings through falsework shall be paved or provided with full width continuous wood walks and shall be kept clear. Pedestrians shall be protected from falling objects and curing water for concrete. Overhead protection for pedestrians shall extend not less than 4 feet beyond the edge of the bridge deck. All pedestrian openings through falsework shall be illuminated in accordance with the provisions in Caltrans Section 86-6.11, "Falsework Lighting."

The Contractor shall notify the Engineer not less than 15 days before the anticipated start of each falsework and girder erection operation whenever such falsework or girders will reduce clearances available to public traffic.

Where the height of vehicular openings through falsework is less than 15 feet, a W34B "Vertical Clearance" sign shall be provided above each opening facing approaching traffic. The signs shall have black letters and numbers on an orange reflectorized background and shall be illuminated so that said signs are clearly visible. The minimum height of the letters and numbers shall be 6 inches and 10 inches, respectively.

No material or equipment shall be stored where it will interfere with the free and 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.

Temporary facilities which the Contractor uses to perform the work shall not be installed or placed where they will interfere with the free and safe passage of public traffic.

Temporary facilities which could be a hazard to public safety if improperly designed shall comply with design requirements specified in the Contract for such facilities or, if none are specified, with standard design criteria or codes appropriate for the facility involved.

Full compensation for conforming to all of the provisions in this Section 7-1.09 shall be considered as included in the Contract Price and no additional compensation will be allowed therefor.

Should the Contractor be negligent or fail to furnish and/or maintaining warning and protective facilities as required herein, the City may furnish and/or maintain such facilities and charge Contractor therefor by deducting the cost thereof from periodic progress payments due the Contractor as such costs are incurred by City.

In the event the Contractor does not provide such flaggers and guards as are required by this section, the Director may request that the San Jose Police Department provide for public safety and that the costs related thereto shall be deducted from any periodic progress payments due the Contractor.

No material or equipment shall be stored where it will interfere with the free and 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 right-of-way open for use by public traffic.

7-1.10 Use of Explosives. The use of explosives is expressly prohibited unless specifically provided for in the special provisions.

7-1.11 Preservation of Property. Attention is directed to Sections 9 and 18 of the Design-Build Contract, 7-1.12, "Responsibility for Damage," Section 8-1.10, "Utility and Non-Highway Facilities," and the Scope of Work. Due care shall be exercised to avoid injury to existing highway improvements or facilities, utility facilities, adjacent property, and roadside trees, shrubs, and other plants that are not to be removed.

Roadside trees, shrubs, and other plants that are not to be removed, and pole lines, fences, signs, markers and monuments, buildings and structures, conduits, pipelines under or above ground, sewer and water lines, all highway facilities, and any other improvements or facilities within or adjacent to the highway shall be protected from injury or damage, and if ordered by the Engineer in writing, the Contractor shall provide and install suitable safeguards, approved by the Engineer, 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, as cost of the work. 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 Contract, if any such objects are a part of the Work being performed under the Contract. The Engineer may make or cause to be made such temporary repairs as are necessary to restore to service any damaged highway facility. The cost of such repairs shall be borne by the Contractor and may be deducted from any moneys due or to become due to the Contractor under the Contract.

The fact that any underground facility is not shown upon the plans shall not relieve the Contractor of any responsibility under Section 8-1.10, "Utility and Non-Highway Facilities." It shall be the Contractor's responsibility, pursuant thereto, to ascertain the location of such underground improvements or facilities which may be subject to damage by reason of the Contractor's operations.

Full compensation for furnishing all labor, materials, tools, equipment, and incidentals, and for doing all the work involved in protecting or repairing property as specified in this Section 7-1.11, shall be considered as included in the Contract Price paid for various items of work and no additional compensation will be allowed therefor.

7-1.12 Responsibility for Damage. The City and all agents, officers and employees thereof including but not limited to the Engineer, shall not be answerable or accountable in any manner: for any loss or damage that may happen to the Work or any part thereof; for any loss or damage to any of the materials or other things used or employed in performing the Work; for injury to or death of any person, either workers or the public, or for damage to property from any cause which might have been prevented by the Contractor, or the workers, or anyone employed by the Contractor.

The Contractor shall be responsible for any liability imposed by law and for injuries to or death of any person including but not limited to workers and the public, or damage to property resulting from defects or obstructions or from any cause whatsoever during the progress of the Work or at any time before its completion and final acceptance.

The Contractor shall protect, indemnify, defend and hold harmless the City and all agents, officers and employees thereof including but not limited to the Engineer, from all claims, suits or actions of every name, kind and description including attorney's fees, brought forth, or on account of, injuries to or death of any person including but not limited to workers and the public, or damage to property resulting from the performance of a Contract, as provided in the Design-Build Contract. With respect to third party claims against the Contractor, the Contractor waives any and all rights to any type of express or implied indemnity against the City, its agents, officers or employees.

It is the intent of the parties that the Contractor will indemnify and hold harmless the City, its agents, officers and employees from any and all claims, suits or actions as set forth above regardless of the existence or degree of fault or negligence on the part of the City, the Contractor, the Subcontractor or Subcontractors at any tier or employee of any of these, other than the sole negligence or willful misconduct of the City, its agents, officers and employees.

In addition to any remedy authorized by law, so much of the money due the Contractor under and by virtue of the Contract as shall be considered necessary by the City may be retained by the City until disposition has been made of such suits or claims for damages as aforesaid.

The retention of money due the Contractor shall be subject to the following:

1. The City will give the Contractor 30 day's notice of its intention to retain funds from any partial payment which may become due to the Contractor prior to acceptance of the Contract. Retention of funds from any payment made after acceptance of the Contract may be made without such prior notice to the Contractor.
2. No retention of additional amounts out of partial payments will be made if the amount to be retained does not exceed the amount being withheld from partial payments pursuant to Section 9-1.06, "Partial Payments."
3. If the City has retained funds and it is subsequently determined that the City is not entitled to be indemnified and hold harmless by the Contractor in connection with the matter for which such retention was made, the City shall pay interest on the amount retained at the same rate as that received by the City on such funds for the period of such retention.

The Contractor shall be responsible for any liability imposed by law and for injuries to or death of any person including but not limited to workers and the public, or damage to property. Contractor shall indemnify and hold harmless any county, city or district, their officers and employees connected with the Work, within the limits of which county, city or district the work is being performed hereunder, all in the same manner and to the same extent as provided above for the protection of the City and all officers and employees thereof connected with the Work.

Nothing in this Contract is intended to make the public or any member thereof a third party beneficiary hereunder, nor is any term and condition or other provision of the Contract intended to establish a standard of care owed to the public or any member thereof.

7-1.121 Protection of Contractor's Work and Property. The Contractor shall protect their work, supplies and materials from damage due to the nature of the work, the action of the elements, trespassers, or any cause whatsoever which is under the Contractor's control, until the completion and acceptance of the Work. Neither the City nor any of its agents assumes any responsibility for collecting indemnity from

any person or persons causing damage to the Work of the Contractor.

7-1.122 (Blank)

7-1.122A (Blank)

7-1.125 (Blank)

7-1.13 Disposal of Material outside the Project Limits. If the Contractor elects to dispose of materials at locations other than those where arrangements have been made by the City, or, if material is to be disposed of and the City has not made arrangements for disposal of such material, the Contractor shall make arrangements for disposing of materials outside the Project limits and the Contractor shall pay all costs involved as cost of the work. Arrangements shall include, but not be limited to, entering into agreements with property owners and obtaining necessary permits, licenses and environmental clearances. Before disposing of any material outside the project limits, the Contractor shall furnish to the Engineer satisfactory evidence that the Contractor has entered into agreements with the property owners of the site involved and has obtained said permits, licenses and clearances.

When any material is to be disposed of outside the Project right of way, and the City has not made arrangements for disposal of such material, the Contractor shall first obtain written authorization from the property owner on whose property the disposal is to be made and the Contractor shall file with the Engineer said authorization or a certified copy thereof together with a written release from the property owner absolving the City from any and all responsibility in connection with the disposal of material on said property, and before any material is disposed of on said property, the Contractor shall obtain written permission from the Engineer to dispose of the material at the location designated in said authorization.

When material is disposed of as above provided and the disposal location is visible from a highway, the Contractor shall dispose of the material in a neat and uniform manner to the satisfaction of the Engineer.

Where the City has made arrangements with owners of land in the vicinity of a project for the disposal of materials on an owner's property, such arrangements are made solely for the purpose of providing all bidders an equal opportunity to dispose of said materials on such property. Bidders or Contractors may, upon written request, inspect the documents evidencing such arrangements between property owners and the City. If the Contractor so elects, exercise any rights that have been obtained, which may be exercised by a Contractor under such arrangements, subject to and upon the conditions hereinafter set forth.

Such arrangements are not a part of the Contract and it is expressly understood and agreed that the City assumes no responsibility to the Contractor whatsoever in respect to the arrangements made with the property owner to dispose of materials thereon and that the Contractor shall assume all risks in connection with the use of such property, the terms upon which such use shall be made, and there is no warranty or guaranty, either express or implied, as to the quantity or types of materials that can be disposed of on such property.

In those instances in which the Department has compiled "Materials Information," said compilation will include the documents setting forth the arrangement made with some of the property owners for the disposal of material on such owners' properties. The inclusion of such documents therein shall not in any respect operate as a waiver of any of the provisions in this Section 71.13 concerning said documents.

The Contractor is cautioned to make such independent investigation and examination as the Contractor deems necessary to satisfy itself as to the quantity and types of materials which may be disposed of on such property and the rights, duties and obligations acquired or undertaken under such arrangement with the property owner.

Notwithstanding that the Contractor may elect to dispose of materials on any such property owner's property, no material may be disposed of on such property unless the Contractor has first entered into an

agreement with the owner of the disposal site on any terms mutually agreeable to the owner and the Contractor; provided that the Contractor shall furnish to the Engineer a release, in a form satisfactory to the Engineer, executed by the owner, relieving the City of any and all obligations under the City's arrangement with the owner.

The Contractor shall pay such charges as are provided for in the agreement between the owner and the Contractor and deductions will not be made from any moneys due or that may become due the Contractor under the Contract to cover such charges.

Before acceptance of the Contract the Engineer may require the Contractor to submit written evidence that the owner of the disposal site is satisfied that the Contractor has satisfactorily complied with the provisions of the agreement between the owner and the Contractor.

Full compensation for all costs involved in disposing of materials as specified in this Section 7- 1.13, including all costs of hauling, shall be considered as included in the Contract Price and no additional compensation will be allowed therefor.

7-1.14 Cooperation. Should construction be under way 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 under way 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 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 material sources) at any time, by the use of other forces.

When 2 or more contractors are employed on related or adjacent work, or obtain materials from the same material source, as provided in Section 6-2.02, "Possible Local Material Sources," or Section 6-2.03 "Mandatory Local Material Sources," each contractor shall conduct their 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 persons 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. The Contractor shall conduct, adjust, correct and coordinate its Work with the work of others to avoid discrepancies that may result in the whole work and shall defend, indemnify and hold the City harmless against any claims arising therefrom as provided in the Design-Build Contract. The Contractor, including Subcontractors at any tier, shall keep informed of the progress and the detail work of other contractors and shall notify the Engineer immediately of lack of progress or defective workmanship on the part of other contractors, where such delay or such defective workmanship will interfere with the Contractor's own operations. Failure of a Contractor to keep informed of the work progressing on the Project Site and failure to give notice of lack of progress or defective workmanship by others shall be construed as acceptance by the Contractor of the status of the work as being satisfactory for proper coordination with the Contractor's work. If the Critical Path of the Work of the Contractor is delayed because of any acts or omissions of any other contractor, the Contractor shall have the right to request relief pursuant to the Design-Build Contract.

7-1.145 Mutual Responsibility of Contractors. If the Contractor or any of their Subcontractors or employees cause loss or damage to any other contractor, and if such other contractor makes a claim against the City, its employees or agents, on account of any loss so sustained, the City shall notify the Contractor, who shall defend, indemnify and save harmless the City, its employees and agents against any such claim, expense or judgment arising therefrom as provided in the Design- Build Contract.

7-1.15 Relief From Maintenance and Responsibility. Upon the request of the Contractor, the Engineer may relieve the Contractor of the duty of maintaining and protecting certain portions of the Work as described below, which have been completed in all respects in accordance with the requirements of the Contract and to the satisfaction of the Engineer and of which City has taken occupancy or use, and

thereafter except with the Engineer's consent, the Contractor will not be required to do further work thereon, except in accordance with the Warranties or as otherwise agreed by Contractor. In addition, such action by the Engineer will relieve the Contractor of responsibility for injury or damage to said completed portions of the Work resulting from use by public traffic or from the action of the elements or from any other cause but not from injury or damage resulting from the Contractor's own operations or from the Contractor's negligence.

However, nothing in this Section 7-1.15 providing for relief from maintenance and responsibility will be construed as relieving the Contractor of full responsibility for making good defective work or materials found at any time before or after the formal written acceptance of the entire Contract by the Engineer.

If the Contractor is relieved of maintenance and responsibility of a portion of the Work performed under this contract and the City takes occupancy or use of that portion of the Work, the Contractor hereby agrees to provide reasonable access to the City's maintenance forces to properly maintain those areas occupied by the City.

7-1.16 (Blank)

7-1.165 (Blank)

7-1.166 (Blank)

7-1.17 (Blank)

7-1.18 Property Rights in Materials. Nothing in the Contract shall be construed as vesting in the Contractor any right of property in the materials used after they have been installed for their intended use or after partial payment has been made as provided in Section 12 of the Design- Build Contract, for material delivered on the ground or stored subject to or under the control of the City and unused. All such materials shall become the property of the City upon being so attached or affixed or shall become the property of City upon payment for materials delivered on the ground or stored subject to or under the control of the City and unused, as provided in Section 12 of the Contract.

7-1.19 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.

The Contractor shall not occupy City-owned property outside the right of way as shown on the plans or outside the expressly designated areas in the Contract Documents unless the Contractor enters into a rental agreement with the City. The agreement will be based on the fair rental values.

7-1.20 Repair of Equipment. 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 and any laborers, workers, or mechanics working on such machinery, equipment, or tools, unless employed by bona fide commercial repair shops, garages, blacksmith shops, or machine shops, which have been established and operating on a commercial basis for a period of at least 2 months prior to the award of the Contract, shall be subject to all the requirements relating to labor set forth in the Contract Documents.

7-1.21 Material Plants. 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 be 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 Documents.

7-1.22 (Blank)

7-1.23 (Blank)

7-1.24 (Blank)

7-1.25 (Blank)

7-1.26 (Blank)

7-1.27 (Blank)

7-1.28 (Blank)

7-1.29 (Blank)

END OF SECTION

SECTIONS PROSECUTION AND PROGRESS

8-1.01	Subcontracting
8-1.02	Assignment
8-1.03	Beginning of Work
8-1.04	Blank
8-1.05	Blank
8-1.06	Blank
8-1.06A	Blank
8-1.07	Blank
8-1.07A	Blank
8-1.08	Blank
8-1.09	Blank
8-1.10	Utility and Non-Highway Facilities
8-1.11	Blank
8-1.11A	Blank
8-1.12	Blank
8-1.13	Blank

SECTION 8

PROSECUTION AND PROGRESS

8-1.01 Subcontracting. The Contractor shall give personal attention to the fulfillment of the Contract and shall keep the work under the Contractor's control.

No Subcontractor will be recognized by City as such and purpose of City, and all persons engaged in the Work will be considered by City as employees of the Contractor and the Contractor will be held responsible for their Work, which shall be subject to the provisions of the Contract Documents.

Contractor shall not enter into any Subcontracts with any Person then debarred or suspended from submitting bids by any agency of the State. Pursuant to the provisions in Section 1777.1 of the Labor Code, the Labor Commissioner publishes and distributes a list of contractors ineligible to perform work as a subcontractor on a public works project. This list of debarred contractors is available from the Department of Industrial Relations web site at http://www.dir.ca.gov/dir/Labor_law/DLSE/Debar.html.

Before Work is started on a subcontract, the Contractor shall file with the Engineer a written statement showing the Work to be subcontracted, the names of the Subcontractors and the description of each portion of the Work to be so subcontracted.

When a portion of the Work which has been subcontracted by the Contractor is not being prosecuted in a manner satisfactory to the City, the Subcontractor or any designated employee of the Subcontractor shall be removed immediately on the request of the Engineer and shall not again be employed on the Work.

The roadside production of materials produced by other than the Contractor's forces shall be considered as subcontracted. Roadside production of materials shall be construed to be production of aggregates of all kinds with portable, semiportable or temporary crushing or screening, proportioning, and mixing plants established or reopened for the purpose of supplying aggregate or material for a particular project or projects. The erection, establishment, or reopening of such plants and the operation thereof in the production of said materials for use on the Work shall conform to the requirements relating to labor set forth in these specifications and in the special provisions.

Nothing contained in the specifications or plans shall be construed as creating any contractual relationship between any Subcontractor and the City. The divisions or sections of the specifications are not intended to control the Contractor in dividing the work among Subcontractors or to limit the work performed by any trade.

The Contractor shall be fully responsible to the City for the acts and omissions of Subcontractors, and of persons employed by the Contractor.

The Contractor shall be responsible for the coordination of trades, subcontractors, and suppliers engaged upon the Work.

Any and all Subcontractors or material suppliers at any tier shall be bound by the provisions of these specifications.

8-1.02 Assignment. The performance of the Contract may not be assigned, except upon the written consent of the City. Consent will not be given to any proposed assignment which would relieve the original Contractor or the original Contractor's surety of their responsibilities under the Contract nor will the City consent to any assignment of a part of the Work under the Contract.

The Contractor may assign moneys due or to become due 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 set-offs 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.

8-1.03 Beginning of Work. The Contractor shall notify the Engineer, in writing, of the Contractor's intent to begin work at least 72 hours before Work is begun. The notice shall be delivered to the Office of the Engineer and shall specify the date the Contractor intends to start. If the Project has more than one location of Work, a separate notice shall be given for each location.

Should the Contractor begin work in advance of receiving Notice to Proceed, any Work performed in advance of the said date of Notice to Proceed shall be considered as having been done by the Contractor's own risk and expense and as a volunteer unless a Notice to Proceed is subsequently issued. Should any Work be performed prior to Notice to Proceed, such Work shall be subject to inspection and acceptance by City as provided for elsewhere in the Contract Documents.

8-1.04 (Blank)

8-1.05 (Blank)

8-1.06 (Blank)

8-1.06A (Blank)

8-1.07 (Blank)

8-1.07A (Blank)

8-1.08 (Blank)

8-1.09 (Blank)

8-1.10 Utility and Non-Highway Facilities. Attention is directed to Section 7-1.11, "Preservation of Property," and Section 7-1.12, "Responsibility for Damage," the insurance and indemnification requirements in Sections 9 and 18 of the Contract, Article 6 of the Contract, and the Scope of Work. The Contractor shall protect from damage utility and other non-highway facilities that are to remain in place, be installed, relocated or otherwise rearranged.

The right is reserved to the City and the owners of facilities, or their authorized agents, to enter upon the highway right-of-way for the purpose of making such changes as are necessary for the rearrangement of their facilities or for making necessary connections or repairs to their properties. The Contractor shall cooperate with forces engaged in such work and shall conduct operations in such a manner as to avoid any unnecessary delay or hindrance to the work being performed by such other forces. Wherever necessary, the work of the Contractor shall be coordinated with the rearrangement of utility or other non-highway facilities, and the Contractor shall make arrangements with the owner of such facilities for the coordination of the work.

Attention is directed to the possible existence of facilities not indicated on the City-Provided Information and to the possibility that utility lines may be in locations different from that which is indicated in the City-Provided Information. The Contractor shall ascertain the exact location, size and type of all lines within the Project Site or otherwise potentially impacted by Project construction, whether or not such lines are shown in the City-Provided Information, the location of their service laterals or other appurtenances, and of existing service lateral or appurtenances of any other underground facilities which can be inferred from the presence of visible facilities such as buildings, meters and junction boxes prior to doing Work that may damage any of such facilities or interfere with their service.

If the Contractor cannot locate an underground facility whose presence is indicated on the City-Provided Information, the Contractor shall so notify the Engineer in writing. If the Contractor discovers

underground main or trunk lines not indicated on the City-Provided Information, the Contractor shall immediately give the Engineer and the Utility Company written notification of the existence of such facilities. Such main or trunk lines shall be located and protected from damage as directed by the Engineer. The Contractor shall, if directed by the Engineer, repair any damage which may occur to such main or trunk lines.

Should the Contractor desire to have any rearrangement made in any utility facility, or other improvement, for the Contractor's convenience in order to facilitate construction operations, the Contractor shall request that the City make whatever arrangements are necessary with the owners of such utility or other non-highway facility for such rearrangement and City shall bear all expenses in connection therewith.

The Contractor shall immediately notify the Engineer of any delays to operations as a direct result of underground main or trunk line facilities which were not indicated on the plans or in the special provisions or were located in a position substantially different from that indicated on the plans or in the special provisions, or as a direct result of utility or other non-highway facilities not being rearranged as herein provided (other than delays in connection with rearrangements made to facilitate construction operations or delays due to a strike or labor dispute).

Nothing herein shall preclude the City from pursuing any appropriate remedy against the utility for delays which are the responsibility of the utility.

Nothing herein shall 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.

8-1.11 (Blank)

8-1.11A (Blank)

8-1.12 (Blank)

8-1.13 (Blank)

END OF SECTION

SECTION9
MEASUREMENT AND PAYMENT

- 9-1.01 Measurement of Quantities
- 9-1.015 Final Pay Quantities
- 9-1.02 Blank
- 9-1.03 Force Account Payment
- 9-1.03A Work Performed by Contractor
 - 9-1.03A(1) Labor
 - 9-1.03A(1a) Actual Wages (Construction Work)
 - 9-1.03A(1b) Labor Surcharge (Construction Work)
 - 9-1.03A(1c) Subsistence and Travel Allowance (Construction Work)
 - 9-1.03A(1d) Cost of Labor (Non-Construction-Related Work)
 - 9-1.03A(2) Materials
 - 9-1.03A(2a)
 - 9-1.03A (2b)
 - 9-1.03A (2c)
 - 9-1.03A (2d)
 - 9-1.03A (2e)
 - 9-1.03A(3) Equipment Rental
 - 9-1.03A(3a) Equipment on the Work
 - 9-1.03A(3b) Equipment not on the Work
 - 9-1.03A(3c) Owner-Operated Equipment
 - 9-1.03A(3d) Dump Truck Rental
- 9-1.03B Work Performed by Special Forces or Other Special Services
- 9-1.03C Records
- 9-1.03D Payment
- 9-1.04 Blank
- 9-1.05 Blank
- 9-1.06 Partial Payments
- 9-1.065 Payment of Withheld Funds

SECTION 9

MEASUREMENT AND PAYMENT

9-1.01 Measurement of Quantities. All Work to be paid for at a price per unit of measurement will be measured by the Engineer in accordance with United States Standard Measures. A ton shall consist of 2,000 pounds avoirdupois.

Unless shipped by rail, material paid for by weight shall be weighed on scales furnished by and at the expense of the Contractor as cost of the work, or on other sealed scales regularly inspected by the Division of Measurement Standards or its designated representative.

All weighing, measuring and metering devices used to measure the quantity of materials used in the work shall be suitable for the purpose intended and shall conform to the tolerances and specifications as outlined in Title 4, Chapter 8 of the California Administrative Code, the provisions of the California Business and Professions Code, Division 5, and these specifications. Devices not Type-approved by the Division of Measurement Standards shall be Type-approved in accordance with California Test 109.

All weighing, measuring or metering devices used to determine the quantity of materials to be paid for will be considered to be "commercial devices," and shall be sealed by the Division of Measurement Standards or its authorized representative as often as the Engineer may deem necessary. The installation of all portable vehicle scales must be approved by the Engineer prior to sealing.

Vehicle scales shall be of sufficient size to permit the entire vehicle or combination of vehicles to rest on the scale deck while being weighed. Combination vehicles may be weighed as separate units provided they are disconnected while being weighed. The maximum concentrated load shall not exceed the manufacturer's designed sectional capacity of the scale.

All weighing, measuring or metering devices required by these specifications for the purpose of proportioning a material or product will be considered to be "non-commercial devices," and shall be tested and approved in accordance with California Test 109. This testing shall be done by one of the following, in the presence of the Engineer, as often as the Engineer deems necessary:

A County Sealer of Weights and Measures

A Scale Service Agency

A Division of Measurement Standards Official

The Contractor shall notify the Engineer at least 24 hours in advance of testing the device. All undersupports for scale bearing points shall be constructed of Portland cement concrete produced from commercial quality aggregates and cement, which contains not less than 470 pounds of cement per cubic yard. Undersupports shall be constructed in a manner to prevent any shifting or tilting of the support. They shall have a minimum height of 14 inches above ground line. The footings shall have a minimum depth of 6 inches below the ground line. The bearing surface of the footings shall have a minimum width of 30 inches and shall be of such area that the pressure does not exceed 4,000 pounds per square foot. Adequate drainage shall be provided to prevent saturation of the ground under the scale. Scale bulkheads shall be of adequate material and strength to resist displacement.

If timber bulkheads are used, the minimum cross section shall be 8 inches by 8 inches. Wedges shall not be used to shim the supports. If shimmying is necessary, it shall be done by securely attached metal shims, or by grouting. Shimmying shall not exceed 3 inches. The approach ramps shall be level with the scale deck for a distance of not less than 1/2 the length of the scale deck. The mechanical indicating elements shall be installed level and plumb and shall be rigidly mounted upon a concrete foundation.

The lever system and mechanical indicating elements of hopper scales shall be rigidly attached to non-

yielding supports in such a manner as to prevent any loss in weight due to bending and distortion of the supports.

When a multiple beam type scale is used in proportioning materials, an over and under indicator shall be provided which will give positive visible evidence of the amount of any over and under weight. The indicator shall be so designed that it will operate during the addition of the last 200 pounds of any weighing. The over-travel of the indicator shall be at least 113 of the loading travel. Indicators shall be enclosed against moisture and dust.

All over and under, dial, and other indicators for weighing and measuring systems used in proportioning materials shall be grouped so that the smallest increment for each indicator can be accurately read from the point at which the proportioning operation is controlled.

The Contractor shall bear the expense, as cost of the work of all service fees for testing and approving of "non-commercial devices." The cost of the equipment, labor and materials furnished by the Contractor to assist in the testing of weighing, measuring or metering devices will be considered as included in the contract prices paid for the various contract items requiring said weighing, measuring or metering and no separate payment will be made there.

Whenever pay quantities of material are determined by weighing, the scales shall be operated by a weighmaster licensed in accordance with the provisions of the California Business and Professions Code, Division 5, Chapter 7. The Contractor shall furnish a Public Weighmaster's certificate or certified daily summary weigh sheets. A representative of the Department may, at the discretion of the Engineer, be present to witness the weighing and to check and compile the daily record of such scale weights.

When required by the Engineer, the operator of each vehicle weighed shall obtain a weight or load slip from the weigher and deliver said slip to the Engineer at the point of delivery of the material.

If material is shipped by rail, the car weights will be accepted provided that actual weight of material only will be paid for and not minimum car weight used for assessing freight tariff, and provided further that car weights will not be acceptable for material to be passed through mixing plants.

Vehicles used to haul material being paid for by weight shall be weighed empty daily and at such additional times as the Engineer may direct. Each vehicle shall bear a plainly legible identification mark. Vehicles may from time to time be required by the Engineer to have the weight of the material to be paid for verified by weighing the empty and loaded vehicle on such other scales as the Engineer may designate.

All loads in vehicles hauled over streets and highways shall be legal loads and no payment will be made for the loads in excess of the legal load limits.

All materials which are specified for measurement by the cubic yard "measured in the vehicle" shall be hauled in vehicles of such type and size that the actual contents may be readily and accurately determined. Unless all vehicles are of uniform capacity, each vehicle must bear a plainly legible identification mark indicating its water level capacity. All vehicles shall be loaded to at least their water level capacity and all loads shall be leveled when the vehicles arrive at the point of delivery. Loads hauled in vehicles not meeting the above requirements or loads of a quantity less than the capacity of the vehicle, measured after being leveled off as above provided, will be subject to rejection, and no compensation will be allowed for such material.

When material is to be measured and paid for on a volume basis and it is impractical to determine the volume by the specified method of measurement, or when requested by the Contractor in writing and approved by the Engineer in writing, the material will be weighed in accordance with the requirements specified for weight measurement and such weights will be converted to volume measurement for

payment purposes. Factors for conversion from weight measurement to volume measurement will be determined by the Engineer and shall be agreed to by the Contractor before such method of measurement of pay quantities will be adopted.

Quantities of material wasted or disposed of in a manner not called for under the Contract, or rejected loads of material, including material rejected after it has been placed by reason of the failure of the Contractor to conform to the provisions of the Contract, or material not unloaded from the transporting vehicle, or material placed outside of the lines indicated on the plans or established by the Engineer, or material remaining on hand after completion of the Work; will not be paid for and such quantities will be deducted from the final total quantities. No compensation will be allowed for hauling and disposing of rejected material.

The weight of all aggregate or other roadway material which is to be paid for on a weight basis, except imported borrow, imported topsoil, straw, fiber, aggregate subbases, aggregate bases or aggregate for cement treated bases, will be determined by deducting from the weight of material, the weight of water in the material at the time of weighing in excess of 3 percent of the dry weight of the material. When imported borrow, imported topsoil, or aggregate subbase is being paid for on weight basis, the weight to be paid for will be determined by deducting from the weight of the material, the weight of water in the material at the time of weighing in excess of 6 percent of the dry weight of the material. When straw is being paid for on weight basis, the weight to be paid for will be determined by deducting from the weight of straw, the weight of water in the straw at the time of weighing in excess of 15 percent of the dry weight of the straw. When fiber is being paid for on a weight basis, the weight of water in the fiber at the time of weighing shall not exceed 15 percent of the dry weight of the fiber. No deduction will be made for the weight of water in fiber. The percentage of water in the material shall be determined by California Test 226. The weight of aggregate base and aggregate for cement treated bases which are to be paid for on a weight basis, will be determined as provided in Section 26, "Aggregate Bases," and Section 27, "Cement Treated Bases," respectively.

The weight of water deducted as provided in this Section 9-1.01 will not be paid for.

Full compensation for all expense, deemed as cost of the work, involved in conforming to the requirements specified in this Section 9-1.01 shall be considered as included in the prices paid for the materials being measured or weighed and no additional compensation will be allowed therefor.

9-1.015 Final Pay Quantities. When the estimated quantities for a specific portion of the Work are designated in the Contract as final pay quantities, said estimated quantities shall be the final quantities for which payment for such specific portion of the Work will be made, unless the dimensions of said portions of the Work shown on the plans are revised by the Engineer. If such dimensions are revised, and such revisions result in an increase or decrease in the quantities of such Work, the final quantities for payment will be revised in the amount represented by the changes in the dimensions. The estimated quantities for such specific portion of the Work shall be considered as approximate only and no guarantee is made that the quantities which can be determined by computations, based on the details and dimensions shown on the plans, will equal the estimated quantities. No allowance will be made in the event that the quantities based on computations do not equal the estimated quantities.

When portions of an item have been designated in the Contract as final pay quantities, portions not so designated will be measured and paid for in accordance with the applicable provisions of these specifications and the special provisions.

In case of a discrepancy between the quantities designated in the Contract as final pay quantities and the quantity of the same item shown in the Engineer's Estimate, payment will be based on the final pay quantities shown on the plans.

9-1.02 (Blank)

9-1.03 Force Account Payment. When extra Work is to be paid for on a force account basis, the labor, materials and equipment used in the performance of such Work shall be subject to the approval of the Engineer and compensation will be determined as follows:

9-1.03A Work Performed by Contractor. The Contractor will be paid the direct costs for labor, materials and equipment used in performing the work determined as hereinafter provided in Sections 9-1.03A (1), "Labor," 9-1.03A (2), "Materials," and 9-1.03A (3), "Equipment Rental," except where agreement has been reached to pay in accordance with Section 9-1.03B, "Work Performed by Special Forces or Other Special Services."

To the total of the direct costs for Work performed on a force account basis, computed as provided in Sections 9-1.03A (1), "Labor," 9-1.03A (2), "Materials," and 9-1.03A (3), "Equipment Rental," there will be added a markup of 15 percent to the cost of labor, 15 percent to the cost of materials, and 15 percent to the equipment rental.

The above markups shall constitute full compensation for all direct and indirect overhead costs and profit which shall be deemed to include all items of expense not specifically designated as cost or equipment rental in Sections 9-1.03A (1), "Labor," 9-1.03A (2), "Materials," and 9-1.03A (3), "Equipment Rental." The total payment made as provided above shall be deemed to be the actual cost of such Work and shall constitute full compensation therefor.

When extra Work to be paid for on a force account basis is performed by a Subcontractor, approved in accordance with the provisions in Section 8-1.01, "Subcontracting," an additional markup of 5 percent will be added to the total cost of said extra work including all markups specified in this Section 9-1.03A. Said additional 5 percent markup shall reimburse the Contractor for additional overhead, job site, home office and administrative costs, and no other additional payment will be made by reason of performance of the extra Work by a Subcontractor.

The additional 5 percent markup will be added once only, regardless of whether the work is performed by the Subcontractor or further subcontracted.

Full compensation for overhead costs for Work performed on a force account basis shall be considered as included in the markups specified above, and no additional compensation will be allowed therefor.

9-1.03A(1) Labor. The Contractor will be paid the cost of labor for the workers (including foremen when authorized by the Engineer), used in the actual and direct performance of the Work. The cost of labor, whether the employer is the Contractor, subcontractor, or other forces, will be the sum of the following:

9-1.03A(1a) Actual Wages (Construction Work). The actual wages paid shall be limited to the following components: basic hourly rate, health and welfare, pension, vacation/holiday, and training.

9-1.03A(1b) Labor Surcharge (Construction Work). To the actual wages, as defined in Section 9-1.03A(1a), will be added a labor surcharge of 15%. Said labor surcharge shall constitute full compensation for all payments imposed by State and Federal laws and for all other payments made to, or on behalf of, the workers, other than actual wages as defined in Section 9-1.03A(1a) and subsistence and travel allowance as specified in Section 9-1.03A(1c).

9-1.03A(1c) Subsistence and Travel Allowance (Construction Work). The actual subsistence and travel allowance paid to such workers.

9-1.03A(1d) Cost of Labor (Non-Construction-Related Work). The cost of labor for non-construction-related Work (including design, surveying, utility coordination, permits, professional environmental services and similar aspects of the Work), whether provided by Contractor or a Subcontractor, will equal the sum of (1) actual wages (i.e. the base wage paid to the employee exclusive

of fringe benefits), plus (2) a labor surcharge of 40% on such amount, which shall constitute full compensation for all state and federal payroll, unemployment and other taxes, workers' compensation, fringe benefits (including health insurance, retirement plans, vacation, sick leave and bonuses) and all other payments made to, or on behalf of, the workers, in excess of actual wages, as well as for overhead.

9-1.03A(2) Materials. The City reserves the right to furnish such materials as it deems advisable, and the Contractor shall have no claims for costs and markup on such materials.

Only materials furnished by the Contractor and necessarily used in the performance of the Work will be paid for. The cost of such materials will be the cost to the purchaser, whether Contractor, Subcontractor or other forces, from the supplier thereof, except as the following are applicable:

9-1.03A(2a)- If a cash or trade discount by the actual supplier is offered or available to the purchaser, it shall be credited to the City notwithstanding the fact that such discount may not have been taken.

9-1.03A(2b)- If materials are procured by the purchaser by any method which is not a direct purchase from and a direct billing by the actual supplier to such purchaser, the cost of such materials shall be deemed to be the price paid to the actual supplier as determined by the Engineer plus the actual costs, if any, incurred in the handling of such materials.

9-1.03A(2c)- If the materials are obtained from a supply or source owned wholly or in part by the purchaser, the cost of such materials shall not exceed the price paid by the purchaser for similar materials furnished from said source on contract items or the current wholesale price for such materials delivered to the job site, whichever price is lower.

9-1.03A(2d)- If the cost of such materials is, in the opinion of the Engineer, excessive, then the cost of such material shall be deemed to be the lowest current wholesale price at which such materials were available in the quantities concerned delivered to the job site, less any discounts as provided in Section 9-1.03A(2a).

9-1.03A(2e)- If the Contractor does not furnish satisfactory evidence of the cost of such materials from the actual supplier thereof within 60 days after the date of delivery of the material or within 15 days after acceptance of the Contract, whichever occurs first, the City reserves the right to establish the cost of such materials at the lowest current wholesale prices at which such materials were available in the quantities concerned delivered to the location of the Work, less any discounts as provided in Section 9-1.03A(2a).

9-1.03A(3) Equipment Rental. The Contractor will be paid for the use of equipment at the rental rates listed for such equipment in the Department of Transportation publication entitled Labor Surcharge And Equipment Rental Rates, which is in effect on the date upon which the Work is accomplished and which is a part of the Contract, regardless of ownership and rental or other agreement, if such may exist, for use of such equipment entered into by the Contractor, except that for those pieces of equipment with a rental rate of \$10.00 per hour or less as listed in the Labor Surcharge And Equipment Rental Rates publication and which are rented from a local equipment agency, other than Contractor owned, the Contractor will be paid at the hourly rate shown on the rental agency invoice or agreement for the time used on force account work as provided in Section 9-1.03A (3a), "Equipment on the Work." If a minimum equipment rental amount is required by the local equipment rental agency, the actual amount charged will be paid to the Contractor.

If it is deemed necessary by the Engineer to use equipment not listed in said publication, a suitable rental rate for such equipment will be established by the Engineer. The Contractor may furnish any cost data which might assist the Engineer in the establishment of such rental rate. If the rental rate established by the Engineer is \$10.00 per hour or less, the provisions above concerning rental of equipment from a local equipment agency shall apply.

The rental rates paid as above provided shall include the cost of fuel, oil, lubrication, supplies, small tools, necessary attachments, repairs and maintenance of any kind, depreciation, storage, insurance, and all incidentals.

Operators of rented equipment will be paid for as provided in Section 9-1.03A(I), "Labor."

All equipment shall, in the opinion of the Engineer, be in good working condition and suitable for the purpose for which the equipment is to be used.

Unless otherwise specified, manufacturer's ratings and manufacturer approved modifications shall be used to classify equipment for the determination of applicable rental rates. Equipment which has no direct power unit shall be powered by a unit of at least the minimum ratings recommended by the manufacturer.

Individual pieces of equipment or tools not listed in said publication and having a replacement value of \$500 or less, whether or not consumed by use, shall be considered to be small tools and no payment will be made therefor.

Rental time will not be allowed while equipment is inoperative due to breakdowns.

9-1.03A(3a) Equipment on the Work. The rental time to be paid for equipment on the Work shall be the time the equipment is in operation on the extra work being performed, and in addition, shall include the time required to move the equipment to the location of the extra Work and return it to the original location or to another location requiring no more time than that required to return it to its original location, except that moving time will not be paid for if the equipment is used at the site of the extra Work on other than such extra Work. Loading and transporting costs will be allowed, in lieu of moving time, when the equipment is moved by means other than its own power, except that no payment will be made if the equipment is used at the site of the extra Work on other than such extra Work.

The following shall be used in computing the rental time of equipment on the Work:

(1) When hourly rates are listed, less than 30 minutes of operation shall be considered to be 1/2 hour of operation.

(2) When daily rates are listed, less than 4 hours of operation shall be considered to be 1/2 day of operation.

9-1.03A(3b) Equipment not on the Work. For the use of equipment moved in on the work and used exclusively for extra work paid for on a force account basis, the Contractor will be paid the rental rates listed in the State of California Department of Transportation publication entitled Labor Surcharge And Equipment Rental Rates, which is in effect on the date upon which the Work is accomplished and which is a part of the Contract, or determined as provided in Section 9-1.03A (3) and for the cost of transporting the equipment to the location of the work and its return to its original location, all in accordance with the following provisions:

(1) The original location of the equipment to be hauled to the location of the work shall be agreed to by the Engineer in advance.

(2) The City will pay the costs of loading and unloading such equipment.

(3) The cost of transporting equipment in low bed trailers shall not exceed the hourly rates charged by established haulers.

(4) The cost of transporting equipment shall not exceed the applicable minimum established rates of the Public Utilities Commission.

(5) The rental period shall begin at the time the equipment is unloaded at the site of the extra work,

shall include each day that the equipment is at the site of the extra work, excluding Saturdays, Sundays, and legal holidays unless the equipment is used to perform the extra work on such days, and shall terminate at the end of the day on which the Engineer directs the Contractor to discontinue the use of such equipment. The rental time to be paid per day will be in accordance with the following:

<i>Hours Equipment in Operation</i>	<i>Hours to be paid</i>
0	4
0.5	4.25
1	4.5
1.5	4.75
2	5
2.5	5.25
3	5.5
3.5	4.75
4	6
4.5	6.25
5	6.5
5.5	6.75
6	7
6.5	7.25
7	7.5
7.5	7.75
8	8
Over 8	Hours in operation

The hours to be paid for equipment which is operated less than 8 hours due to breakdowns, shall not exceed 8 less the number of hours the equipment is inoperative due to breakdowns.

(6) When hourly rates are listed, less than 30 minutes of operation shall be considered to be 1/2 hour of operation.

(7) When daily rates are listed, payment for 1/2 day will be made if the equipment is not used. If the equipment is used, payment will be made for one day. The minimum rental time to be paid for the entire rental period on an hourly basis shall not be less than 8 hours or, if on a daily basis, shall not be less than one day.

(8) Should the Contractor desire the return of the equipment to a location other than its original location, the City will pay the cost of transportation in accordance with the above provisions, provided

such payment shall not exceed the cost of moving the equipment to the Work.

(9) Payment for transporting, and loading and unloading equipment, as above provided, will not be made if the equipment is used on the work: in any other way than upon extra work paid for on a force account basis.

When extra Work, other than Work specifically designated as extra Work in the Contract Documents, is to be paid for on a force account basis and the Engineer determines that such extra Work requires the Contractor to move on to the Work equipment which could not reasonably have been expected to be needed in the performance of the Contract, the Engineer may authorize payment for the use of such equipment at equipment rental rates in excess of those listed as applicable for the use of such equipment subject to the following additional conditions:

The Engineer shall specifically approve the necessity for the use of particular equipment on such Work, Contractor shall establish to the satisfaction of the Engineer that such equipment cannot be obtained from a normal equipment source or sources and those of the Subcontractors,

The Contractor shall establish to the satisfaction of the Engineer that the proposed equipment rental rate for such equipment from the proposed source is reasonable and appropriate for the expected period of use.

The Engineer shall approve the equipment source and the equipment rental rate to be paid by the City before the Contractor begins work involving the use of said equipment.

9-1.03A(3c) Owner-Operated Equipment. When owner-operated equipment is used to perform extra Work to be paid for on a force account basis, the Contractor will be paid for the equipment and operator, as follows:

Payment for the equipment will be made in accordance with the provisions in Section 9-1.03A(3), "Equipment Rental."

Payment for the cost of labor and subsistence or travel allowance will be made at the rates paid by the Contractor to other workers operating similar equipment already on the Project or, in the absence of such other workers, at the rates for such labor established by collective bargaining agreements for the type of worker and location of the Work, whether or not the owner operator is actually covered by such an agreement. A labor surcharge will be added to the cost of labor described herein, in accordance with the provisions in Section 9-1.03A(1b), "Labor Surcharge."

To the direct cost of equipment rental and labor, computed as provided herein, will be added the markups for equipment rental and labor as provided in Section 9-1.03A, "Work Performed by Contractor."

9-1.03A(3d) Dump Truck Rental. Dump truck rental shall conform to the provisions in Sections 9-1.03A(3), "Equipment Rental," 9 1.03A(3a), "Equipment on the Work," and 9-1.03A(3b), "Equipment not on the Work," except as follows:

Fully maintained and operated rental dump trucks used in the performance of extra Work paid for on a force account basis will be paid for at the same hourly rate paid by the Contractor for use of fully maintained and operated rental dump trucks in performing contract item Work.

In the absence of contract item Work requiring dump truck rental, the City will establish an hourly rental rate to be paid. The Contractor shall provide the City with complete information on the hourly rental rates available for rental of fully maintained and operated dump trucks.

The provisions in Section 9-1.03A(1), "Labor," shall not apply to operators of rented dump trucks.

The rental rates listed for dump trucks in the Department of Transportation publication entitled Labor Surcharge and Equipment Rental Rates shall not apply.

To the total of the rental costs for fully maintained and operated dump trucks, including labor, there will be added a markup of 15 percent. An additional markup of 5 percent will be added by reason of performance of the Work by a Subcontractor. No separate markup will be made for labor.

The provisions in Section 9 1.03A(3c), "Owner Operated Equipment," shall not apply to dump truck rentals.

9-1.03B Work Performed by Special Forces or Other Special Services. When the Engineer and the Contractor, by agreement, determine that a special service or an item of extra Work, cannot be performed by the forces of the Contractor or those of any of the Subcontractors, such service or extra Work item may be performed by a specialist. Invoices for such service or item of extra Work on the basis of the current market price thereof may be accepted without complete itemization of labor, material, and equipment rental costs when it is impracticable and not in accordance with the established practice of the special service industry to provide such complete itemization.

In those instances wherein a Contractor is required to perform extra Work necessitating a fabrication or machining process in a fabrication or machine shop facility away from the job site, the charges for that portion of the extra work performed in such facility may, by agreement, be accepted as a specialist billing.

To the specialist invoice price, less a credit to the City for any cash or trade discount offered or available, whether or not such discount may have been taken, will be added 15 percent in lieu of the percentages provided in Section 9-1.03A, "Work Performed by Contractor."

9-1.03C Records. The Contractor shall maintain all records in such a manner as to provide a clear distinction between the direct costs of extra Work paid for on a force account basis and the costs of other operations.

From the above records, the Contractor shall furnish the Engineer completed daily extra Work reports, on forms furnished by the City, for each day's extra Work to be paid for on a force account basis. The daily extra work reports shall itemize the materials used, and shall cover the direct cost of labor and the charges for equipment rental, whether furnished by the Contractor, Subcontractor, or other forces, except for charges described in Section 9-1.03B, "Work Performed by Special Forces or Other Special Services." The daily extra work reports shall provide names or identifications and classifications of workers, the hourly rate of pay and hours worked, and also the size, type and identification number of equipment, and hours operated.

Material charges shall be substantiated by valid copies of vendor's invoices. Such invoices shall be submitted with the daily extra work reports, or if not available, they shall be submitted with subsequent daily extra work reports. Should said vendor's invoices not be submitted within 60 days after the date of delivery of the material or within 15 days after the acceptance of the Contract, whichever occurs first, the City reserves the right to establish the cost of such materials at the lowest current wholesale prices at which said materials were available in the quantities concerned delivered to the location of Work less any discounts as provided in Section 9-1.03A (2a).

Said daily extra work reports shall be signed by the Contractor or the Contractor's authorized representative.

The Engineer will compare his/her records with the completed daily extra work reports furnished by the Contractor and make any necessary adjustments. When these daily extra work reports are agreed upon and signed by both parties, said reports shall become the basis of payment for the Work performed, but shall not preclude subsequent adjustment based on a later audit by the City.

The Contractor's cost records pertaining to Work paid for on a force account basis shall be open to inspection or audit by representatives of the City, during the life of the contract and for a period of not

less than 3 years after the date of acceptance thereof, and the Contractor shall retain such records for that period. Where payment for materials or labor is based on the cost thereof to forces other than the Contractor, the Contractor shall make every reasonable effort to insure that the cost records of such other forces will be open to inspection and audit by representatives of the City on the same terms and conditions as the cost records of the Contractor. If an audit is to be commenced more than 60 days after the acceptance date of the Contract, the Contractor will be given a 10 day notice of the time when such audit is to begin.

9-1.03D Payment. Payment as provided in Sections 9-1.03A, "Work Performed by Contractor," and 9-1.03B, "Work Performed by Special Forces or Other Special Services," shall constitute full compensation to the Contractor for performance of Work paid for on a force account basis and no additional compensation will be allowed therefor.

9-1.04 (Blank)

9-1.05 (Blank)

9-1.06 Partial Payments. The City, once in each month, shall cause an estimate in writing to be made by the Engineer. The estimate shall include the total amount of Work done to the time of such estimate, and, for Design-Build Task Orders, the value thereof based on the agreed-upon Schedule of Values. The estimate shall also include any amounts payable for mobilization.

The City shall retain 10 percent of such estimated value of the Work done, except that at any time after 50 percent of the Work has been completed, if the Engineer finds that satisfactory progress is being made, the City may reduce the total amount being retained from payment pursuant to the above requirements to 5 percent of the total estimated value of said Work and may so reduce the amount retained from any of the remaining partial payments to 5 percent of the estimated value of such work. In addition, on any partial payment made after 95 percent of the Work has been completed, the City may reduce the amount withheld from payment pursuant to the requirements of this Section 9-1.06, to such lesser amount as the Engineer determines is adequate security for the fulfillment of the balance of the Work and other requirements of the Contract (but in no event will said amount be reduced to less than 125 percent of the estimated value of the Work yet to be completed as determined by the Engineer). Such reduction will only be made upon the written request of the Contractor and shall be approved in writing by the surety on the Performance Bond and by the surety on the Payment Bond. The approval of the surety shall be submitted to the City: the signature of the person executing the approval for the surety shall be properly acknowledged and the power of attorney authorizing him/her to give such consent must either accompany the document or be on file with the City.

The Engineer may at any time and in the Engineer's sole discretion reinstate the retention at the full 10 percent of the value of the Work performed upon notice to the Contractor. The Contractor shall immediately repay to the City all amounts paid to the Contractor in excess of the 10 percent retention. If the Contractor fails to repay the amount due within a reasonable time, the City may, in addition to all of the other remedies available to it, withhold such amount from future partial payments made to the Contractor.

The City shall pay monthly to the Contractor, while carrying on the Work, the balance not retained, as aforesaid, after deducting therefrom all previous payments and all sums to be kept or retained under the provisions of the Contract. No such estimate or payment shall be required to

be made when, in the judgment of the Engineer, the Work is not proceeding in accordance with the provisions of the Contract, or the total value of the Work done since the last estimate amounts to less than \$5,000.

No such estimate or payment shall be construed to be an acceptance of any defective Work or improper materials.

Attention is directed to the express prohibition against payment to unlicensed contractors contained in Public Contract Code Section 10164, the provisions of which are set forth in Section 7-1.01C, "Contractor's Licensing Laws."

The estimates of the Engineer shall be final and conclusive evidence of the amount of Work performed by the Contractor under this Contract, and shall be taken as full measure of compensation to be received by the Contractor.

Before any partial payment or the final payment is made, the Contractor may be required to submit satisfactory evidence that the Contractor is not delinquent in payments to employees or creditors for labor and materials incorporated into the Work.

The Contractor shall maintain and provide to the City, with each partial payment request, certified payrolls for all of its employees and those employees of Contractor's Subcontractors.

9-1.065 Payment of Withheld Funds. The Contractor may substitute securities for any moneys withheld by the City to ensure performance under this Contract, provided that substitution of securities shall not be allowed in contracts in which there will be financing provided by the Farmers Home Administration of the United States Department of Agriculture pursuant to the Consolidated Farm and Rural Development Act (7 U.S.C. Sec. 1921 et seq.), and where federal statutes, regulations or policies, or both, do not allow the substitution of securities. At the request and expense, as cost of the work, of the Contractor, securities equivalent to the amount withheld shall be deposited with the City, or with a state or federally chartered bank as the escrow agent, the City shall then pay such withheld moneys to the Contractor. Upon satisfactory completion of the Contract, the securities shall be returned to the Contractor.

Securities eligible for investment under this Section shall include those listed in Section 16430 of the California Government Code, bank or savings and loans 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 shall be the beneficial owner of any securities substituted for moneys withheld and shall receive any interest thereon.

The escrow agreement used to implement this Section shall be null, void, and unenforceable unless it is substantially similar to the following form:

ESCROW AGREEMENT FOR SECURITY

DEPOSITS IN LIEU OF RETENTION

This Escrow Agreement is made and entered into by and between City of San Jose whose address is _____, hereinafter called "Owner," _____ whose address is _____ hereinafter called "Contractor" and _____ whose address is _____ hereinafter called "Escrow Agent"

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

(1) Pursuant to Section 22200 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 Owner pursuant to the Design-Build Contract entered into between the Owner and Contractor for _____ in the amount of _____ dated _____ (hereinafter referred to as the "Contract").

Alternatively, on written request of the contractor, the owner shall make payments of the retention earnings directly to the escrow agent. When 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 Owner and Contractor. Securities shall be held in the name of _____, and shall designate the Contractor as the beneficial owner.

(2) The Owner shall make progress payments to the Contractor for such 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 Owner makes payment of retentions earned directly to the escrow agent, the escrow agent shall hold them for the benefit of the contractor until such time as 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 owner pays the escrow agent directly.

(4) Contractor shall be responsible for paying all fees for the expenses incurred by Escrow Agent in administering the Escrow Account and all expenses of the Owner. These expenses and payment terms shall be determined by the Owner, Contractor and Escrow Agent and shall be deemed cost of the work.

(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 at any time and from time to time without notice to the Owner.

(6) Contractor shall have the right to withdraw all or any part of the principal in the Escrow Account accompanied by written authorization from Owner to the Escrow Agent that Owner consents to the withdrawal of the amount sought to be withdrawn by Contractor.

(7) The Owner shall have a 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 Owner of the default, the Escrow Agent shall immediately convert the securities to cash and shall distribute the cash as instructed by the Owner.

(8) Upon receipt of written notification from the Owner 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 payments of fees and charges.

(9) Escrow Agent shall rely on the written notifications from the Owner and the Contractor pursuant to Sections (4) and (6), inclusive, of this Agreement and the Owner and Contractor shall hold Escrow Agent harmless from Escrow Agent's release and disbursement of the securities and interest 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 Owner and on behalf of Contractor in connection with the foregoing, and exemplars of their respective signatures are as follows:

On behalf of the Owner

On behalf of the Contractor

Title

Title

Name

Name

Signature

Signature

Address

Address

On behalf of Escrow Agent

Title

Name

Signature

Address

At the time the Escrow Account is opened, the Owner and Contractor shall deliver to the Escrow Agent a fully executed counterpart of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement by their proper officers on the date first set forth above.

Owner

Contractor

Title

Title

Name

Name

Signature

Signature

- 9-1.07 (Blank)
- 9-1.07A (Blank)
- 9-1.07B (Blank)
- 9-1.08 (Blank)
- 9-1.09 (Blank)
- 9-1.10 (Blank)

END OF SECTION

PART 1 - GENERAL

1.01 SUMMARY

- A. This Section includes general requirements related to the work to be performed on the airport site and is complimentary to the requirements specified in the Special Provisions, Standard Specifications and Standard Plans.
- B. This Section includes the following procedures:
 - 1. Special coordination procedures.
 - 2. Operational requirements.
 - 4. Phasing/Sequencing requirements.
 - 5. Periodic Phasing Plans.
 - 6. Contractor's use of premises.
 - 7. Special requirements.
 - 8. Temporary signage.
 - 9. Work Hours Restrictions
 - 10. Temporary shutdown of utilities
- C. Related Sections:
 - 1. Section 01 54 00 – Airport Security Requirements
 - 2. Section 01 59 60 – Airport Operational Safety Requirements
 - 3. Others as applicable.

1.02 REFERENCES

- A. Federal Aviation Administration "Federal Aviation Regulations," (Available from FAA)
- B. Transportation Security Administration (TSA)
- C. City of San Jose Department of Public Works Standard Specifications, Dated July 1992 (commonly referred to as "Standard Specifications" throughout this Section).
- D. City of San Jose Department of Public Works Standard Plans, Dated July 1992 (commonly referred to as "Standard Plans" throughout this Section).

1.03 SUBMITTALS

- A. Submittal requirements are to be determined during Project Programming.

1.04 SPECIAL COORDINATION PROCEDURES

- A. All coordination communications between the CONTRACTOR and the following parties will be through the CITY:

1. Mineta San José International Airport
2. U. S. Customs and Border Protection (CBP)
3. U. S. Citizenship and Naturalization Services
4. Individual Airlines
5. Individual Concessionaires and Tenants
6. Federal Aviation Administration (FAA)
7. Transportation Security Administration (TSA)

- B. Conduct operations so that annoyance and inconvenience to patrons, visitors and operating personnel will be held to an absolute minimum. Work or activity which affects Airport operations or public on roadways or in buildings shall be done only during hours designated by CITY. This may require that Work or activity be done during odd hours, at night and on weekends or holidays. Work or activity includes shutdowns of utilities and other Airport functions.

- C. Limit operations to areas on which Work under Contract is being performed. Keep all equipment, supplies and delivery of materials within designated staging areas. All use or occupancy shall be subject to prior approval by CITY. Should such use or occupancy prove objectionable in any way, modify arrangements so as to eliminate the objection.

- D. Prior to the start of construction, meet with CITY and become thoroughly familiar with rules and regulations pertaining to hazards to flying and also with control of vehicular traffic on Airport roads. Plan Work so that no unnecessary hazards to aircraft will be created. Advise CITY of all hazards created by CONTRACTOR's operations.

1.05 OPERATIONAL REQUIREMENTS

- A. San Jose International Airport will be in continuous operation 24 hours a day during the entire construction period. Cooperate with the CITY to facilitate and minimize conflict with Airport operations.
- B. Schedule all work that affects airport operations at least 30 days in advance and submits plans for this work to the CITY for approval. Schedule shall include dates, hours of operation, type of equipment, work area, planned personnel/equipment movements and deliveries.

- C. San Jose International Airport Normal Hours of Passenger Service Flight Operations: 6:30 A.M. until 11:30 P.M. daily, seven days per week, but normal Passenger Service Parking Operations extend well beyond these times. Also, planes may arrive and depart at any time and therefore parking would similarly be affected.
- D. Airport Daily Peak Periods of Operations: Coordinate construction operations as required due to Airlines scheduling requirements, peak times for roadway congestion, and similar Airport Operations constraints.
- E. Peak Seasonal Airport Dates: The airport's peak dates of operation will take precedent over the Contractor's work hours. Peak Seasonal Airport Dates are designated as the Wednesday before Thanksgiving until the Monday following Thanksgiving and other dates as may be identified by the CITY.
- F. Public Restroom Facilities are open to the public from 5:30 A.M. until 11:30 P.M. daily, seven days per week subject to airlines peak periods of operations. However, Contractor's personnel are prohibited from using public restroom facilities.

1.06 PHASING/SEQUENCING REQUIREMENTS

- A. All Airport operations shall be maintained throughout the construction process. Contractor shall submit initial phasing plans to Airport Operations and San José Fire Department for review and approval. The plans must demonstrate procedures in which emergency egress and security will be maintained during construction.
- B. Parking Garage - Schedule construction operations to allow parking areas, including stalls, ramps, turn-arounds and access aisles where work is not currently taking place, to remain in full service during normal scheduled operational hours. Do not perform any construction operation prior to receiving approval from the CITY.
- C. Curbside - Schedule construction operations to allow queueing activities related to ground transportation functions where work is not currently taking place, to remain in full service during normal scheduled operational hours. Do not perform any construction operation prior to receiving approval from the CITY.

1.07 PERIODIC PHASING PLANS

- A. Submittal requirements are to be determined during Project Programming.
- B. Each month concurrent with the CONTRACTOR's Application for Payment, and as a requirement for the Application for Payment to be considered for payment, the CONTRACTOR shall submit the Periodic Phasing Plan to the CITY. The Phasing Plan will indicate the CONTRACTOR's next calendar (thirty days) work in graphic and written format.
- C. The CITY may provide site plan and survey templates when available. Submittal of CAD files shall be in accordance with City of San Jose, Mineta San José International Airport Procedure, SJC-ACM-AIMS-2000, Electronic Data Interchange (EDI) Standards. The

Phasing Plan will be a progress update of the CONTRACTOR's Laydown Plan and shall, at a minimum, address the following:

1. Show all normal public, Airline Tenant and Airport circulation impacts, the need for temporary facilities, security impacts, equipment locations.
2. Indicate any creation of temporary hazardous conditions such as excavations, fuel storage, welding, lifts and cranes for unloading materials, and pavement cutouts near walking areas.
3. Show all Temporary Facilities that will be in use during the next thirty (30) days.
4. Identify dates during the next thirty (30) days when utility interruptions are anticipated.
5. Equipment placement, haul routes, access routes, safety concerns, parking, material staging areas, significant areas of work, note temporary signage, etc...

1.08 CONTRACTOR'S USE OF PREMISES

A. Access to Work Areas.

1. Parking Area: Confine construction operations within movable barricades designating Construction Areas.
2. Access Roads: Confine activities within barricades or limits designating haul roads.

B. Access to Public Facilities:

1. Provide adequate restroom and break facilities within the job site and staging areas as appropriate.
2. Employees required by this Contract are not authorized to use any of the following public facilities except as specifically authorized by the Airport:
 - a. Public restrooms.
 - b. Airport eating facilities.
 - c. Boarding gate hold rooms.
 - d. Other public areas of the terminal.

1.09 SPECIAL REQUIREMENTS

- A. All construction activities shall be scheduled with the City Project Manager and subject to Escort Requirements and Airport approval. All construction materials and equipment shall remain within approved Construction Area at all times unless approved in writing by the CITY.
- B. The following activities shall be limited to the hours between 11:30 P.M. until 4:30 A.M., subject to Escort Requirements, Airport approval and Arrival/Departure schedules. All

construction materials and equipment shall remain within approved Construction Area at all times unless approved in writing by the CITY.

1. All activities of high noise, dust, and smell within the existing facility.
2. All associated activities related to terrazzo/concrete pouring and finishing within the existing facility.
3. All associated activities related to building demolition and hauling of debris within the existing facility.
4. All Hot Work activities within the existing facility.
5. All associated activities related to steel and large material deliveries.
6. Movement of Construction Equipment: movement of hoisting equipment, cranes, mobile construction sheds, heavy construction equipment, trucks, and other large construction equipment.
7. All associated activities related to utility shutdowns.
8. All associated activities related to Fire Alarm/Fire Suppression System shutdown, testing, or modification.
9. Any other construction activity identified by the Airport as post curfew work.

1.10 TEMPORARY SIGNAGE

- A. The CONTRACTOR shall supply any temporary signage necessary for preservation of public safety and maintenance of general Airport operations during the course of the work. Submit a Temporary Sign Plan for City review and approval a minimum of seven (7) calendar days prior to fabrication.

1.11 TEMPORARY SHUTDOWN OF UTILITIES

- A. CITY may approve utility shut downs of short durations (4 hours or less) during "non-working hours (11:30 P.M.- 4:30 A.M.)" requiring them with a minimum of at least 2 weeks in advance of start of construction activity.
- B. Shut downs of long durations will require back-up generators, etc. The Airport emergency generators are not available for use during long term shut downs.
- C. The CONTRACTOR shall submit a Method of Procedure (MOP) plan for approval by the CITY prior to the implementation of the shutdown.

PART 2 - PRODUCTS

Not used.

PART 3 - EXECUTION

Not used.

END OF SECTION

PART 1 - GENERAL

1.01 SUMMARY

- A. This Section describes protection of work and property required during construction.

1.02 RELATED SECTIONS

- A. Section 01 35 00 – Airport Special Requirements
- B. Section 01 59 60 – Airport Operational Safety Requirements

1.03 REFERENCE STANDARDS

- A. 49 CFR 1542.
- B. SJIA Rules and Regulations.

1.04 REQUIREMENTS

- A. Under the provisions of 49 CFR 1542, it has been determined that employees of the Airport, Airport tenants, contractors, and air carriers who have access to the controlled areas of the Airport, are in positions where their actions can have a critical impact on the safety and security of the traveling public.
- B. Therefore, it is understood and agreed that if the work, storage or entry areas provide access to the aircraft ramps, taxiways, runways or any other restricted areas of the Airport, the CONTRACTOR shall, at his own expense and cost, take whatever steps are reasonably necessary to prevent or deter persons and vehicles from unauthorized access to such areas. The CONTRACTOR shall take such further actions as may be necessary because of the nature of the work, to insure continuing compliance with all applicable regulations relative to Airport security.
- C. No claim for additional compensation shall be considered if the Aviation Security Level (AVSEC) of the Airport is increased by decree of the TSA/DOT.
- D. The San Jose Police Department – Airport Division, under advice of TSA or Airport Operations personnel can and will arrest and levy fines on individuals and companies for violations of security regulations.
- E. Security Plan: As part of the CONTRACTOR's mobilization, a Security Plan shall be required.
 - 1. A statement that all parts of the Airport Security Program (ASP) apply except as amended in the CONTRACTOR's Security Plan.
 - 2. The starting and ending dates of the Project.

3. The name, address and phone number of the CONTRACTOR.
 4. A list of 24 hours a day – 7 days a week emergency contact name(s) and phone number(s).
 5. A brief description of the Project.
 6. The names of CONTRACTOR employees to be badged, the type of badges to be requested, and a statement that there will be no unbadged or unescorted workers in the Project work area(s).
 7. A description of the planned access points to the secure area(s) and security measures that will be taken at the access point(s).
 8. Other information that affects the existing Airport Security Plan.
 9. A 100 square inch photocopy of the company vehicle logo to be displayed on all vehicles that will be unescorted on the AOA. This will include General and Subcontractor vehicles.
 10. A detailed description of any security fences, gates or other equipment the CONTRACTOR intends to utilize to meet security requirements on the Airport.
- F. The Airport Planning and Development Division has examples of Security Plans and can assist the CONTRACTOR in assembling the plan. The document shall be on company letterhead and signed by a responsible officer of the company. It will be reviewed by Airport Operations and the TSA.
- G. The Security Plan shall not be in force until the Plan is approved by the Airport Security Coordinator (ASC) and TSA. The CONTRACTOR shall submit this plan to the CITY at least 60 days prior to the expected start of work in accordance with the requirements of RFP.
- 1.05 ACCESS TO SECURED AREAS
- A. Contractors, subcontractors, their employees, vendors, truckers and other persons who are required to perform work in the secured areas of the Airport, shall either have been issued an Airport security badge or (be) escorted by someone who has Airport security clearance and badge. This specifically includes trucks bringing materials into or out of the controlled areas.
- B. All vehicles entering the AOA may be subject to inspections before access is granted. These inspections may include, but are not limited to; passenger compartments, cargo or storage compartments, vehicle contents and personnel.

1.06 RESTRICTION OF CERTAIN ITEMS IN THE STERILE AREA

- A. Any prohibited item (Contact San Jose International Airport for the latest list) that must be taken into the Sterile Area (defined as the area inside the terminal behind the security checkpoint) during hours when it is open to the public will be subject to the following:
 - 1. No prohibited item shall be introduced into the Sterile Area unless the person carrying such an item has the tools escorted by Airport approved contract security company. All prohibited items shall be removed prior to the opening of the Sterile Area unless prior arrangements are made. The CONTRACTOR shall make arrangements in advance to arrange for any required escort. The CONTRACTOR shall be responsible for the cost of hiring an Airport approved contract security guard if work with prohibited tools is performed in the Sterile Area during hours when it is open to the public.
 - 2. A temporary barrier shall be constructed to effectively remove the work area from the Sterile Area. Any such barrier shall be approved by the ASC and require a Security Plan prior to being placed into service.

1.07 SECURITY/IDENTIFICATION BADGES

- A. All persons employed by the CONTRACTOR or subcontractor who require unescorted access to the Airport controlled areas shall have a security badge from the Airport and may be required to undergo a fingerprint based background check and security training prior to a badge being issued. Security badges shall be worn on the employee's outermost garment and above the waist at all times when in the controlled area(s).
- B. Airport security badges are not transferable or assignable. The security badges shall not be modified or altered in any way, and shall be safeguarded at all times.
- C. Lost/stolen security badges shall be immediately reported to the Airport Operations Center (AOC) at 408-277-5100.
- D. Return all identification badges immediately upon expiration of holder's contribution to the Work. Return all identification badges to Airport within twenty-four hours upon receipt of written notice from the Airport. Failure to return identification badges after receipt of written notice will subject the CONTRACTOR to a one hundred-dollar (\$100.00) fine per badge.

1.08 PROCEDURE TO OBTAIN AIRPORT SECURITY BADGES

- A. General procedure: Upon award of the Contract, the CONTRACTOR shall submit on the appropriate forms to the CITY, a list of individuals who will be authorized by the CONTRACTOR to accept responsibility for signing security badge applications. The CONTRACTOR shall also complete appropriate forms to identify the individuals that will require security badges.

- B. The Airport sponsor will meet with the CONTRACTOR to review badging procedures before badge applications are accepted. The Airport will not verify or sign for sub-contractors.
- C. 49 CFR 1542.209 requires that all applicants for SIDA badges submit to and successfully pass a fingerprint-based Criminal History Records Check (CHRC) and/or Security Threat Assessment (STA) prior to issuance of a SIDA badge. CHRC and/or STA results are generally available within five (5) business days; however, the Airport does not have the ability to control the timing or receiving results and shall not be responsible for delays.
- D. Security Badge Application: . Appointments may be scheduled by going to <https://www.flysanjose.com/badging-office> An appointment is required for all Badging activities except for the replacement of a damaged/broken badge.
- E. Due to the high volume of appointments in a day, we are unable to assist customers on a walk in basis outside of the reasons listed above. The CONTRACTOR will be assessed a \$50.00 fee if an employee does not show up for a scheduled appointment. An Appointment is required for the following reasons:
- **New Badge-** New Applicants that need to start the Badging Process
 - **Testing-** All bi-annual testing appointments.
 - **Lost Badges-** To replace a Lost Badge. PRIORITY
 - **Swapping Tenants-** To change the tenant sponsorship from one tenant to another.
 - **Legal Name Change-** To legally change the name of the applicant on the badge

We do understand that specific types of appointments cannot wait until the next available appointment. Those appointments listed as Priority (see above) will receive precedence and we will do our best to schedule these appointments either the same or the following business day. When scheduling an appointment please make sure to select the appropriate appointment. Failure to select the proper appointment may result in the applicant having to reschedule their appointment. Applications take a minimum of 48 hours to process.

- F. Security Badge Training: The TSA has mandated that all persons who require unescorted access to the restricted areas of the Airport shall undergo security training. The required security training is determined by badge access requested by Tenant. Depending on the number of tests required, testing may take from 30 minutes to 2 ½ hours. Please allow enough time to complete all required tests. Applicant must pass the training by successfully answering a series of questions at the end of each section of the training in order to obtain a badge.

If the applicant requires a translator, the Authorized Signatory must provide a letter on company letterhead requesting a translator and identifying the person providing the translating services. San Jose Airport does not provide a translator. It is the responsibility of the company to provide a translator. All translators must currently have a SJC airport badge of equivalent access as the person they are translating for. Due to the additional time required to translate, please make sure to identify the need for translating services when

scheduling their appointment for testing. Please allow an additional 30-60 minutes per test for translating.

- G. **Badging:** After successful completion of the SIDA training class and CHRC, the badge will be issued by the Badging Office during business hours. The applicant shall bring two forms of identification. One form of identification shall be a verifiable picture identification issued by a county, state or federal agency. Examples of the identification are a current California Driver's License or Identification Card, U.S. passport, or military identification.
- H. **Return of badges and employers' obligation to notify Airport of termination of an employee:** The Airport Operations Center (AOC) shall be notified verbally within 15 minutes of the termination of an employee, so that the active status of the security badge can be suspended. The 24-hour contact number for the AOC is (408) 277-5100. Badges of terminated employees shall be retrieved and returned to the Badging Office within one day after termination.
- I. **Lost or stolen badges:** The AOC shall be notified verbally within 15 minutes that a security badge has been lost or stolen. Written notification shall reach the Badging Office within 8 hours of the verbal notice. There is a fee for the replacement of lost badges.
- J. **Return of Badges on Contract Completion:** Badges shall be returned to the Airport upon contract completion. A One Hundred Dollar (\$100) fee will be assessed against the retention for any security badge not returned.

1.09 SECURITY VIOLATIONS

- A. **Three Strikes:** SJPD-AD and Airport Operations will issue Three Strikes citations to badged individuals for security violations. Multiple security violations shall result in the individual being required to retake the SIDA class or the revocation of the SIDA Badge.
- B. **Administrative Citations:** SJPD-AD and Airport Operations will issue Administrative Citations to badged individuals for the violation of San Jose Municipal Codes concerning Airport Security. The fines for Administrative Citations shall be paid by the individual and range from \$100 to \$1,000. Administrative Citations will be issued for but not limited to the following offenses:
 - 1. Piggybacking or tailgating
 - 2. Allowing someone to piggyback/tailgate
 - 3. Propping a door/gate and leaving the area
 - 4. Not waiting for a vehicle gate to close after entering/exiting

1.10 VEHICLE MEDIA PROGRAM

- A. All CONTRACTOR vehicles that traverse between the public roadways and the Airport AOA and may be parked unattended in the AOA, shall have the company logo registered with the Badging Office.
- B. The Badging Office shall provide the applicable registration form(s) and issue the appropriate parking permit(s) for these vehicles. Vehicles found to be in non-compliance with vehicle permit requirements are subject to citation and towing at the CONTRACTOR's expense.

1.11 VEHICLE PARKING RESTRICTIONS

- A. Vehicles will be restricted from parking within an Airport-approved distance of a terminal building where passengers load unless they have been inspected and cleared. CONTRACTOR will arrange to have vehicle inspections performed by making arrangements directly with the Airport Approved contract Security Company. CONTRACTOR vehicles that enter the construction site on public roads and pass through inspection points established by the Airport will not have to be re-inspected. These restrictions currently only affect vehicle parking outside the AOA on the public portion of the Airport roadways. Vehicles within the AOA and SIDA will be subject to inspection as they enter through the guarded vehicle gates and will not require re-inspection by the CONTRACTOR.
- A. The CONTRACTOR shall not impact public access to or regular public traffic circulation serving the terminals or concourse areas. CONTRACTOR shall not mix service, delivery, or inter-city truck type traffic with the public traffic.

1.12 AIRPORT ACCESS GATE CONTROL

- A. The CONTRACTOR shall only have access to those gates needed to perform their job duties. All gate access will need to be approved by the Airport prior to granting access. If any access gate needs to be propped open for a long period of time an Airport Approved Security Guard will be required to monitor the access gate. The CONTRACTOR will be responsible for the cost of the guard.
- B. Vehicle Identification:
 - 1. Do not permit more than one (1) vehicle per trade at the job site unless otherwise authorized in writing by the Airport.
 - 2. All vehicles authorized access to airport-restricted areas shall conform to Airport Security requirements and to the following:
 - a. Be owned or hired by the CONTRACTOR or Subcontractor.
 - b. Be insured under company policy.

- c. Be properly identified and registered with the Airport badging office. Magnetic signs are acceptable.

1.13 PERSONS UNDER ESCORT

- A. All persons under escort shall remain within sight and sound of the individual providing escort.
- B. While within the SIDA, all escorted individuals shall display “Escort Required” badges. These badges can be obtained from the CITY. Any escorted individuals within the SIDA not displaying an “Escort Required” badge will be removed from the SIDA and a Three Strike citation issued to the escorting individual.

1.14 WORK AFFECTING SECURITY EQUIPMENT

- A. If the Project involves the installation, modification, relocation, or removal of any component of the Airport’s Automated Access Control System (AACS) or closed circuit television system (CCTV), the CONTRACTOR agrees to contact the Airport Security Coordinator (ASC) no later than 30 days before start of project and hire only companies authorized by Airport Operations to perform the work.

PART 2 - PRODUCTS

Not used.

PART 3 - EXECUTION

Not used.

END OF SECTION

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PART 1 - GENERAL

1.01 SUMMARY

- A. This Section includes general operational safety requirements of the Mineta San Jose International Airport (SJIA) to be observed by the CONTRACTOR to minimize disruption of normal aircraft operations and to avoid situations that compromise the airport's operational safety.
- B. The requirements specified in this Section are complimentary to other requirements specified elsewhere in these Special Provisions.

1.02 RELATED SECTIONS

- A. Section 01 35 00 - Airport Special Requirements
- B. Section 01 54 00 – Airport Security Requirements

1.03 REFERENCE STANDARDS

- A. General: Comply with the requirements specified in the referenced standards specified herein.
- B. Federal Aviation Administration (FAA) Advisory Circulars as specified herein.
 - 1. AC 150/5210-20 – Announcement of Availability – National Fire Protection Association (NFPA) Aircraft Familiarization Charts Manual
 - 2. AC 150/5300-13, Airport Design Standards-Site Requirements for Terminal Navigational Facilities
 - 3. FAA Form 7460-1 – Notice of Proposed Construction or Alteration
- C. Federal Aviation Regulations (FAR):
 - 1. FAR Part 139 – Certification and Operations: Land Airports serving Certain Air Carriers
 - 2. FAR Part 157 – Notice of Construction, Alteration, Activation, and Deactivation of Airports
- D. SJIA Rules and Regulations.
- E. CITY OF SAN JOSE Department of Public Works "Standard Specifications", dated July 1992

1.04 SUBMITTALS

- A. Refer to RFP.

1.05 GENERAL REQUIREMENTS

- A. The “Airport’s Movement Area” as referenced herein, is defined by the FAA under AC 150/5210-20 as the runways, taxiways, and other areas of an airport that aircraft use for taxing, takeoff, and landing, exclusive of loading ramp and parking areas, and that are under the control of an Air Traffic Control Tower (ATCT).
- B. The Contractor shall, prior to entry into the Airport’s Movement Area, inform the CITY and Managers (Airport Group of Supervisors) On Duty (MOD) of planned activity in the Airport’s Movement Area including tasks, duration, and personnel planned for such activity.

1.06 SPECIAL COORDINATION PROCEDURES

- A. All coordination and communication between the CONTRACTOR and the following parties will be through the CITY:
 - 1. Norman Y Mineta San José International Airport (SJIA)
 - 2. Federal Aviation Administration (FAA)
 - 3. Transportation Security Administration (TSA)

1.07 OPERATIONAL REQUIREMENTS

- A. The CONTRACTOR, Subcontractors, and CONTRACTOR’s and Subcontractors’ employees, who operate a ground vehicle on any portion of the Air Operations Area (AOA) at SJIA shall be familiar with the following:
 - 1. SJIA rules and regulations.
 - 2. SJIA procedures for ground vehicle operations.
 - 3. The consequences of non-compliance with the SJIA rules and regulations and procedures for ground vehicle operations.
 - 4. Movement Area Operating Permit Program.
- B. Roads used as CONTRACTOR routes may be used by other airport vehicles. The CONTRACTOR shall not interfere with such other airport vehicle traffic and shall yield to emergency vehicles along any of the airport or public roads.

1.08 EQUIPMENT HEIGHT REQUIREMENT

- A. Notice of proposed construction shall be submitted to the appropriate FAA airports district office for review prior to the placement of construction equipment on airports. The guiding criteria involving FAR Part 139 Certificated Airports and Grant Agreement Airports is that all Plans and Specifications require direct coordination with the appropriate Airports district, field, or regional office.

- B. FAR Part 157 also requires prior notice to construct, realign, alter, or activate any runway and landing area or associated taxiway for any project that is non-Federally funded.

1.09 CONSTRUCTION IN PROXIMITY OF NAVIGATIONAL AIDS

- A. Construction activity in the vicinity of navigational aids requires special consideration. Particular attention shall be given to stockpiling materials as well as to the movement and parking of equipment that may interfere with line-of-sight from the tower or interfere with electronic emissions. Refer to AC 150/5300-13, Airport Design Standards--Site Requirements for Terminal Navigational Facilities, current edition, for critical areas of NAVAIDS.

1.10 CONSTRUCTION, LAYDOWN, AND STORAGE AREA

- A. Stockpiled Material: Extensive stockpiled materials will not be permitted within the construction activity areas defined in the preceding four sections. Stockpiled material shall be constrained in a manner to prevent movement as a result of aircraft blast or wind. Material shall not be stored near aircraft turning areas or movement areas. Laydown areas shall not obstruct or interfere with fire access lanes and/or access to building facilities.
- B. Open trenches, excavations, and stockpiled material at the construction site shall be prominently marked at all times with orange flags and lighted with flashing yellow light units (acceptable to the CITY) during hours of restricted visibility and/or darkness. Under no circumstances shall flare pots be used near aircraft turning areas.

1.11 BARRICADE REQUIREMENTS

- A. Provide barricades as required to prevent entry to construction areas and to protect adjacent properties from damage from construction operations.
- B. Low-Level Barricades:
 1. CONTRACTOR shall provide Low-Level Barricades as required within the AOA to demarcate construction areas, drop-offs in excess of three inches, non-compacted soil shoulders, and closed pavement.
 2. Low-Level Barricades shall be constructed from 6-inch by 6-inch timbers, 8 feet long, and painted Orange and White. Barricades shall be prominently marked at all times with Orange flags and with Orange flashing lights during hours of restricted visibility and darkness.
 3. Sandbags shall be used to weight the Low-Level Barricades against jet blast.
 4. Barricades shall be spaced eight feet apart, end-to-end, in most locations. The CITY may specify closer spacing in some locations (i.e. intersections, high-traffic locations).
 5. CONTRACTOR shall designate personnel to straighten Low-Level Barricades lines as requested by the CITY.

1.12 TRAFFIC REGULATIONS

- A. Regulate traffic as required by the CITY OF SAN JOSE Department of Public Works "Standard Specifications", dated July 1992. Applicable articles for airport access gate control and escort are contained in this Section. Submit the Traffic Plan as required.
- B. Personal Vehicles: All construction personnel's private vehicles are restricted from operation in the AOA.
- C. Airport will provide parking areas at no cost for Construction personnel use. Contractor will coordinate parking locations and permits with Airport Operations staff.
- D. Provide flagmen as needed to maintain safe vehicular traffic.

1.13 MISCELLANEOUS SAFETY REQUIREMENT

- A. Open-flame welding or torch-cutting operations shall be prohibited unless adequate fire and safety precautions are provided and have been approved by the CITY. All vehicles shall be parked and serviced behind the construction restriction line and in an area designated by the CITY.
- B. FOREIGN OBJECT DEBRIS (FOD): CONTRACTOR shall implement and continuously maintain an active program of containment and regular cleanup of construction debris, as addressed in the SJIA Safety Requirements.
- C. Construction materials that may be subject to jet blast from aircraft shall be tied down.
- D. Temporary blast walls may be required to deflect jet blast upward and away from the construction site.
- E. Fire extinguishers shall be required at the construction site and at all locations where welding is performed. No welding, either open flame or arc, will be allowed unless a fully charged fire extinguisher of the appropriate size and type is with ten feet of the welding operation. CONTRACTOR shall comply with all fire codes.
- F. Use of explosives is strictly prohibited unless stated otherwise.
- G. CONTRACTOR shall comply with SJIA's Safety Requirements and Environmental Protection Agency regulations regarding fuel spills. CONTRACTOR shall notify the SJIA Airport Communications Center in accordance with the requirements in the SJC Ramp Traffic Regulations. Copies of this document are available in the Airport badging office.
- H. Signal lights and barricades shall be required at any airside fences and jet blast walls, as well as adjacent to any nighttime open excavations.
- I. No visitors shall be permitted on site until they have signed in on the form provided by the CITY.
- J. CONTRACTOR's Safety Plan shall be submitted to the CITY for review.

- K. CONTRACTOR shall submit and maintain a Severe Weather/Disaster Plan. Plan shall be in place within 30 days of Award of Contract. The Application for Payment for Mobilization will not be considered until the Severe Weather/Disaster Plan Submittal is approved by the CITY. Plan shall be updated as the work progresses and new conditions occur.
- L. Dust control shall be as specified in Section 10, "Dust Control," of the Standard Specifications and Special Provisions. An aggressive and effective dust control program is expected and required given that construction will be performed on an operating airport and in the vicinity of operating aircraft. CONTRACTOR shall take direction from the CITY whenever the dust control program is not to the satisfaction of the CITY. At least one full water truck and operator shall be available for immediate dispatch whenever any condition or activity that could cause dust exists. Dust control during other than working hours shall be provided to the satisfaction of the CITY.

1.14 CLEANING REQUIREMENTS

- A. Establish an active ongoing Cleaning Program to eliminate any foreign objects that may cause damage to aircraft or cause personal injury to other persons.
- B. The standard of cleanliness for active runways, taxiways, and ramp areas is defined by the Airport and does not permit any construction debris or dirt.
- C. Immediately clean any debris tracked or dropped on AOA or haul routes to eliminate hazard. Only an End of Workday cleanup will not suffice.
- D. Any debris generated by this Project that is removed by the Airport will be at the CONTRACTOR's expense.
- E. Provide covered containers for deposit of waste materials from equipment, debris, and rubbish. Containers will only be allowed in approved locations as indicated on the approved Monthly
- F. The CONTRACTOR shall provide vacuum truck sweepers to maintain clean and clear roadway and hard surface areas at all times as directed by the CITY.

PART 2 – PRODUCTS

Not Used.

PART 3 – EXECUTION

Not Used.

END OF SECTION

APPENDIX 4

COST PROPOSAL

Design Builder's Entity Fees

- A. Profit and Overhead ⁽¹⁾ as a percentage of the Design-Builder's cost of design and construction _____ %

- B. General Conditions ⁽²⁾ as percentage of the Design-Builder's cost of design and construction valued at _____ %

- C. Project Management I Construction Management ("PM/CM") ⁽³⁾ as a percentage of Design-Builder's cost of design and construction valued at _____ %

- D. Design Fees as a percentage of the Design-Builder's cost of construction. (excludes Design Fees for D-B Subcontractors and Geotech which are included in cost of construction) _____ %

- E. Contingency as a percentage of the Design-Builder's cost of design and construction _____ %

- F. Escalation as percentage of the Design-Builder's cost of design and construction (included in the Design-Builder's cost of construction) _____ %

Notes:

- 1. Overhead is Regional and Corporate offices General and Administrative costs but excludes Project Site office overhead.
- 2. General Conditions include all Project Site overheads and all direct supervision. However it excludes all PM/CM which represents the cost of all core management functions.
- 3. PM/CM core management cost that is excluded from General Conditions.

Design-Builder
 Supplement to Appendix 4 – Cost Proposal: Named Subcontractor Fees

	Subcontractor A	Subcontractor B	Subcontractor C	Subcontractor D	Subcontractor E
Profit and Overhead (1) as a percentage of the Subcontractor's cost of design and construction					
General Conditions (2) as percentage of the Subcontractor's cost of design and construction					
Project Management I Construction Management "PM/CM" (3) as a percentage of Subcontractor's cost of design and construction					
Design Fees as a percentage of the Subcontractor's cost of construction					
Contingency as a percentage of the Subcontractor's cost of design and construction	0 (A)	0 (A)	0 (A)	0 (A)	0 (A)
Escalation as percentage of the Subcontractor's direct cost of construction only	Will be in direct cost of construction.	Will be in direct cost of construction.	Will be in direct cost of construction.	Will be in direct cost of construction.	Will be in direct cost of construction.
	Subcontractor F	Subcontractor G	Subcontractor H	Subcontractor I	Subcontractor J
Profit and Overhead (1) as a percentage of the Subcontractor's cost of design and construction					
General Conditions (2) as percentage of the Subcontractor's cost of design and construction					
Project Management I Construction Management "PM/CM" (3) as a percentage of Subcontractor's cost of design and construction					
Design Fees as a percentage of the Subcontractor's cost of construction					
Contingency as a percentage of the Subcontractor's cost of design and construction	0 (A)	0 (A)	0 (A)	0 (A)	0 (A)
Escalation as percentage of the Subcontractor's direct cost of construction only	Will be in direct cost of construction.	Will be in direct cost of construction.	Will be in direct cost of construction.	Will be in direct cost of construction.	Will be in direct cost of construction.

Design-Builder to carry one contingency and escalation for entire project.

APPENDIX 5

(Intentionally Omitted)

APPENDIX 6

(Intentionally Omitted)

APPENDIX 7

NONDISCRIMINATION / NONPREFERENTIAL TREATMENT APPLICABLE TO CONTRACTS FOR PUBLIC WORKS CONSTRUCTION PROJECTS

Statement of Purposes

It is the Policy of the City of San Jose that **no discrimination or preferences** shall be permitted in the subcontracting of the City of San Jose construction contracts. Studies have demonstrated that there has been a pattern of discrimination against certain minority groups and women by contractors in the subcontracting of public works contracts. All contractors shall fully comply with Chapter 4.08 of the San Jose Municipal Code and shall not discriminate against or grant preferential treatment to any subcontractor on the basis of race, sex, color, age, religion, sexual orientation, actual or perceived gender identity, disability, ethnicity, or national origin in the performance of the City of San Jose contracts. Any contractor who so discriminates or gives preferences shall be deemed not to be a responsible bidder in accordance with City of San Jose Charter Section 1217.

SECTION I -- REQUIREMENT

These provisions, entitled, “**NONDISCRIMINATION / NONPREFERENTIAL TREATMENT APPLICABLE TO CONTRACTS FOR PUBLIC WORKS CONSTRUCTION PROJECTS**” are incorporated in and made part of the Special Provisions.

In addition, each bidder must - as part of its “PROPOSAL TO CITY OF SAN JOSE” for this project - declare under penalty of perjury that in listing subcontractors in its bid it has not discriminated or given any preference to any firm based on race, sex, color, age, religion, sexual orientation, disability, ethnicity, or national origin. See, PROPOSAL TO CITY OF SAN JOSE.

SECTION II -- CONFLICT WITH APPLICABLE FEDERAL OR STATE LAW

In the event that a particular City public works contract is funded or required to be approved in whole or in part by the State or Federal government and any provision contained herein is inconsistent with any applicable state or federal statutes, rules or regulations, orders or controlling policies pertaining to such funding or approval, to the extent that any such provision is inconsistent, it shall not apply to the contract.

SECTION III -- VIOLATION OF SECTION

Be aware that any Prime Contractor who discriminates or gives preferences is in violation of Chapter 4.08 of the San Jose Municipal Code. Any such violation, in addition to all other remedies set forth in the Municipal Code, is further subject to the provisions of the San Jose Municipal Code, Chapter 4.10 of Title 4, Debarment of Contractors From City Contracts

APPENDIX 8

CONTRACT PROVISIONS IMPLEMENTING CHAPTER 4.08 OF THE SAN JOSE MUNICIPAL CODE

In the performance of this Agreement:

1. Prohibition on Discrimination and Preferential Treatment.

Contractor shall not discriminate against or grant preferential treatment to any person on the basis of race, sex, color, age, religion, sexual orientation, actual or perceived gender identity, disability, ethnicity or national origin.

This provision is applicable to recruiting, hiring, demotion, layoff, termination, compensation, fringe benefits, advancement, training, apprenticeship and other terms, conditions, or privileges of employment, subcontracting and purchasing.

Nothing herein shall be interpreted as precluding any reasonable accommodation provided to any person with a disability.

2. Compliance Reports.

If directed by the Compliance Officer of the City, Contractor shall file, and cause any subcontractor to file, compliance reports with the Compliance Officer. Compliance reports shall be in the form and filed at such times as may be designated by the Compliance Officer. Compliance reports shall contain such information and be supported by such data or records as may be requested by the Compliance Officer to determine whether Contractor or its subcontractor is complying with the nondiscrimination and nonpreference provisions of this Agreement and Chapter 4.08 of the Municipal Code.

3. Failure to Comply With Nondiscrimination Provisions.

If the Compliance Officer determines that the Contractor has not complied with the nondiscrimination or nonpreference provisions of this Agreement, the City may terminate or suspend this Agreement, in whole or in part. Failure to comply with these provisions may also subject Contractor and/or subcontractor to debarment proceedings pursuant to provisions of the San Jose Municipal Code. Failure to comply with these provisions is a violation of Chapter 4.08 of the San Jose Municipal Code and is a misdemeanor.

4. Subcontracts.

Contractor shall include provisions 1 through 3, inclusive, in each subcontract entered into in furtherance of this Agreement so that such provisions are binding upon each of its subcontractors.

5. Waiver of Nondiscrimination Provisions.

The nondiscrimination provisions of this Agreement may be waived by the Compliance Officer, if the Compliance Officer determines that the Contractor has its own nondiscrimination requirements or is bound in the performance of this Agreement by the nondiscrimination requirements of another governmental agency, and the nondiscrimination provisions of the Contractor or other governmental agency are substantially the same as those imposed by the City.

APPENDIX 9

(Intentionally Omitted)

APPENDIX 10

CONTRACT PROVISIONS FOR PREVAILING WAGES

PREVAILING WAGES

Attention is called to the fact that this project is a public work as defined in the California Labor Code. As such, not less than the general prevailing rate of per diem wages and the general prevailing rates for holiday and overtime work shall be paid on this project. Contractors shall be responsible for compliance with all prevailing wage provisions found in California Labor Code Sections 1720 through 1861.

Copies of the General Prevailing Wage Determinations (DIR Wage Index 2018-1) made by the California Director of Industrial Relations in effect for this project and accompanied by a City of San Jose cover sheet are available at the City's Office of Equality Assurance, 200 East Santa Clara Street, 5th Floor, San Jose CA 95113-1905. All questions regarding prevailing wage requirements are to be directed to the Office of Equality Assurance at 408-535-8430.

Alternate workweek schedules that allow employees to work more than eight (8) hours per day without overtime pay are **not permitted** on public works construction contracts. **Please see attached DIR May 10, 2007 IMPORTANT NOTICE TO AWARDDING BODIES AND INTERESTED PARTIES REGARDING OVERTIME ON PUBLIC WORKS.**

Effective January 2, 2002, a Congestion Zone Fee (CZF) is required to be paid to each Ironworker [refer to Ironworker Master Agreement]. The CZF is currently \$9.00 per worker/per day. The CZF is to be included on the contractors' certified payroll reports under the Travel & subsistence column. Failure to pay the CZF will result in a prevailing wage violation requiring the contractor to make restitution to the affected worker(s). Additionally, liquidated damages will be assessed.

The appropriate craft classification for welding is **Ironworker [DIR Wage Index Page 2]**.

The appropriate craft classification for operating directional boring machine, bobcat, forklift, pilot car and skip loader (up to and including ½ cubic yard) is **Operating Engineer [DIR Wage Index Pages 39, 40A, 42]**. **Please see Page 48 – DIR July 15, 2002 NOTICE REGARDING ADVISORY SCOPE OF WORK FOR THE NORTHERN CALIFORNIA LABORERS' GENERAL PREVAILING WAGE DETERMINATION.**

Installation of draperies, blinds, shades and awnings under a construction contract is subject to prevailing wage requirements. The appropriate craft classification is **Laborer Group 3 [DIR Wage Index Pages 49-50]**.

The appropriate craft classification for on-going construction clean-up is **Laborer Group 3 [DIR Wage Index Pages 49-50]**.

The appropriate craft classifications for tree trimming and tree removal are: **Laborer Construction Specialist and Laborer Group 3 [DIR Wage Index Pages 49-50]**.

The appropriate craft classification for final construction clean-up is **Laborer Group 4 [DIR Wage Index Pages 49-50]**.

Stator Rewinder

San Jose Living Wage rates are higher than the California general prevailing wage rates for the Stator Rewinder craft. Per San Jose City Council Policy, the San Jose Living Wage rates shall apply to the Stator Rewinder classifications.

The Living Wage rates for the period July 1, 2017 through June 30, 2018 are:

Living Wage With Health Benefits	Living Wage Without Health Benefits
\$20.57	\$21.82

The Living Wage rates for the period July 1, 2018 through June 30, 2019 are:

Living Wage With Health Benefits	Living Wage Without Health Benefits
\$21.73	\$22.98

The appropriate craft classifications for **streetlight and traffic signal projects and parking lots** are:

- Installation of poles, pull ropes, all conductors, signal display/fire preemption/traffic camera/service/special electrical equipment, luminaries, splicing of conductors and installation of loop conductors is **Electrician: Inside Wireman, Technician [DIR Wage Index Page 145]**
- General labor work, installation of conduit **under direct supervision of Electrician: Inside Wireman, Technician**, installation of pull boxes and assisting in placing concrete is **Laborer: Group 3. Laborers are not allowed to install, pull or handle conductors.**
- Operating boom truck, Bobcat, backhoes, concrete saws, pavers, boring machines, augers and rollers is **Operating Engineer (Heavy and Highway Work) [DIR Wage Index Page 39]**
- Placing, floating and finishing concrete is **Cement Mason [DIR Wage Index Page 53]**

Attached is an Informational Only Holiday Schedule for the construction trades. Please note that not all DIR classifications are shown. Please refer to the DIR website at <http://www.dir.ca.gov/oprl/PWD/index.htm> for holidays by classification.

Please note the following classifications are not allowed on City of San Jose public works construction contracts:

Electrical Utility Lineman

Pole Restoration & Treatment

Stator Rewinder

Stator Rewinder Helper (First 6 Months)

Stator Rewinder Helper (After 6 Months)

Laborer and Related Classifications

Group 7 – Stage 1 (1st 6 months)

Stage 2 (2nd 6 months)

Stage 3 (3rd 6 months)

Teamster (Applies Only to Work on the Construction Site)

Group 8 (Trainee)
Step I – 1st 1,000 Hours
Step II – 2nd 1,000 Hours
Step III – 3rd 1,000 Hours

Landscape Maintenance Laborer

Tree Maintenance (Laborer)

Carpet, Linoleum

Floor Covering Handler Less Than 3 Years
Floor Covering Handler Trainee, First 3 Months
Floor Covering Handler Trainee, Second 3 Months

Electrician

Material Handler, Fourth Six Months
Material Handler, Third Six Months
Material Handler, Second Six Months
Material Handler, First Six Months

Plumber

Underground Utility Tradesman
Landscape Tradesman I
Landscape Tradesman II
Construction Tradesman (Year 2)
Construction Tradesman (Year 3)
Construction Tradesman (Year 4)
Construction Tradesman (Year 5)

Water Well Driller

Pump Installer
Helper

In the performance of this Agreement:

I. Standards of Responsibility: Prevailing Wages (Municipal Code 4.10.200)

The city requires in all of its procurement procedures that all persons who submit bids, proposals or offers to enter into a contract with the city to do so truthfully and in good faith, and shall not attempt to mislead the city with respect to the following including, but not limited to, records regarding the nature or quality of the work performed under the contract, payroll records, classification of employees on payroll records, and payment of prevailing wages where called for by the contract.

II. Labor Standards

Please refer to Special Provisions – Labor Standards set forth in Section 7-1.01A.

Holiday Schedule for DIR Wage Determination 2017-2 (Santa Clara County)

Please Note - Not all DIR trades are shown - Please refer to DIR website

This is FYI ONLY. PLEASE CHECK HOLIDAYS AS LISTED IN DIR 2017-2

Please see Additional Holidays for classifications with *

TRADE	New Year's Eve	New Year's Day	MLK Day	Presidents' Day	Cesar Chavez Day	Good Friday	Memorial Day	Independence Day	Labor Day	Columbus Day	Veteran's Day	Thanksgiving Day After Thanksgiving	Christmas Eve	Christmas Day After Christmas
Ironworker		x		x			x	x	x			x	x	
Metal Roofing		x	x	x		x	x	x	x			x	x	x
Asbestos/Heat/Frost Insul Mechanic		x		x		x	x	x	x triple pay			x	x	x
Asbestos/Hazard Material Handler		x		x			x	x	x			x		x
Asbestos Removal (Laborer)		x		x			x	x	x			x		x
Bldg Const Inspector/Field Soil Material Tester		x		x			x	x	x			x	x	x
Carpenter/Drywall/Lather		x	x	x			x	x	x			x	x	x
Cement Mason		x	x	x			x	x	x			x	x	x
Elevator Constructor		x					x	x	x		x	x	x	x
Laborer		x		x			x	x	x			x	x	x
Modular Furniture Installer		x	x	x			x	x	x			x	x	x
Operating Engineer		x		x			x	x	x			x	x	x
Slurry Seal Worker		x		x			x	x	x			x	x	x
Teamster		x		x			x	x	x			x	x	x
Traffic Control/Lane Closure & Hwy Improvement Painter		x		x			x	x	x			x	x	x

Additional holidays by Classification: DDO = Designated Days Off

*Carpenters/Drywall/Lather - 4 DDO: 05/25/18; 08/31/18; 12/24/18; 12/31/18

Holiday Schedule for DIR Wage Determination 2017-2 (Santa Clara County)

Please Note - Not all DIR trades are shown - Please refer to DIR website

This is FYI ONLY. PLEASE CHECK HOLIDAYS AS LISTED IN DIR 2017-2

Please see Additional Holidays for classifications with *

TRADE	New Year's Eve	New Year's Day	MLK Day	Presidents' Day	Cesar Chavez Day	Good Friday	Memorial Day	Independence Day	Labor Day	Columbus Day	Veteran's Day	Thanksgiving Day After Thanksgiving	Christmas Eve	Christmas	Day After Christmas
Bricklayer/Tender		X		X			X	X	X			X	X		X
Carpet Layer		X	X	X			X	X	X			X	X		X
Electrician: Inside Wireman & Comm System		X	X	X			X	X	X		X	X	X		X
Field Surveyeer		X		X			X	X	X			X	X		X
Glazier		X	X	X			X	X	X			X	X		X
Marble Mason/Finisher		X	X	X			X	X	X			X	X		X
Painter		X	X	X			X	X	X			X		X	X
Taper		X	X	X			X	X	X			X		X	X
Plasterer		X	X	X			X	X	X			X			X
Plasterer Tender		X	X	X			X	X	X			X		X	X
Underground Pipefitter		X		X			X	X	X			X	X		X
Plumber/Steam Fitter/HVAC	X	X	X	X			X	X	X	X	X	X	X	X	X
Plumber: Service & Repair		X		X			X	X	X			X	X		X
Fire Sprinkler	X	X	X	X			X	X	X			X	X	X	X
Roofer		X		X			X	X	X			X	X		X
Sheet Metal Worker		X	X	X		X	X	X	X			X	X		X
Sheet Metal Decking & Siding		X		X			X	X	X			X	X		X
Tile Finisher/Setter		X		X			X	X	X			X	X		X

Additional holidays by Classification: DDO = Designated Days Off

*Carpet Layer - 6 DDO: 11/10/17, 12/22/17, 03/30/18, 05/25/18, 06/15/18, 08/31/18, 11/12/18, 12/24/18

*Electrician: Inside Wireman & Comm/System - 5 DDO: Not updated in DIR 2017-2

*Glazier - 9 DDO: 11/10/17, 11/24/17, 12/22/17, 02/16/18, 03/30/18, 05/25/18, 06/15/18 (no further updates)

*Marble Mason/Finisher - 2 Black Fridays: Fridays before Memorial Day & Labor Day

*Painter - 8 DDO: 11/10/17, 11/24/17, 02/16/18, 03/30/18, 05/25/18, 06/15/18, 08/31/18, 11/12/18, 11/23/18, 12/31/18

*Taper - 7 DDO: 09/01/17, 11/10/17, 11/24/17, 12/29/17, 03/30/18, 05/25/18, 06/15/18

*Plumber - DDO: 1st Friday in August 08/03/18

*Fire Sprinklers - 4 DDO: DIR 2017-2 not updated for 2018

APPENDIX 11

(Intentionally Omitted)

APPENDIX 12

(Intentionally Omitted)

Bond Number: _____

CONTRACTOR'S BOND FOR FAITHFUL PERFORMANCE

KNOW ALL PERSONS BY THESE PRESENTS:

That _____, a _____, as Principal, and _____ incorporated under the laws of the State of _____, and authorized to execute bonds and undertakings as sole surety, are held and firmly bound unto the CITY OF SAN JOSE, a municipal corporation of the State of California, in the sum of _____ and /100 DOLLARS (\$ _____), for the payment thereof, well and truly to be made, said Principal and Surety bind themselves, their administrators, successors and assigns, jointly and severally, firmly by these presents.

The condition of the foregoing obligation is such that:
WHEREAS, the above bounden Principal is about to enter into a certain contract with the City of San José for the following:

the award of which said contract was made to said Principal by the City of San José on

NOW, THEREFORE, if the Principal shall well, truly and faithfully perform its duties, all the undertakings, covenants, terms, conditions, and agreements of said contract during the original term thereof, and any extensions thereof which may be granted by the Owner, with or without notice to the Surety, and if he/she shall satisfy all claims and demands incurred under such contract, and shall fully indemnify and save harmless the Owner from all costs and damages which it may suffer by reason of failure to do so, and shall reimburse and repay the Owner all outlay and expense which the Owner may incur in making good any default, then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, FURTHER, that the said 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 accompanying the same shall in any wise affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the work or to the specifications.

IN WITNESS WHEREOF, we have hereunto set our hands and seals on this _____

day of _____, 20__.

PRINCIPAL

SURETY

Legal Company Name

By: _____

By: _____

Title: _____

Title: _____

By: _____

Title: _____

Address _____

Telephone _____

(Affix Corporate Seals)

(Attach Acknowledgments of both Principal and Surety signatures)

Approved by the City Attorney of the City of San José on the _____ day of

_____, 20__.

By: _____

Deputy

APPENDIX 14

(Intentionally Omitted)

Bond Number: _____

CONTRACTOR’S PAYMENT BOND

KNOW ALL PERSONS BY THESE PRESENTS:

THAT WHEREAS, the CITY OF SAN JOSE, a municipal corporation of the State of California, (hereinafter designated as “Public Entity”), is about to enter into a certain contract with _____, a _____, as Principal, namely, “Contract for: _____”, for the work hereinafter briefly described, to wit: Specifications for _____ and more fully described in and required by said contract, the award of which said Contract was made to said Principal by the City of San José on _____.

WHEREAS, said Principal is required by Chapter 5 (commencing at Section 3225) and Chapter 7 (commencing at Section 3247), Title 15, Part 4, Division 3 of the California Civil Code to furnish a bond in connection with said contract.

NOW, THEREFORE, we, the Principal and _____ incorporated under the laws of the State of _____, and authorized to execute bonds and undertakings as sole surety, as Surety, are held and firmly bound unto the Public Entity in the penal sum of _____ and /100 DOLLARS (\$ _____), lawful money of the United States of America for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if said Principal, subcontractors, heirs, executors, administrators, successors, or assigns, shall fail to pay any of the persons named in Section 3181 of the California Civil Code, or amounts due under the Unemployment Insurance Code with respect to any work or labor performed or materials supplied by any such claimant, which said work, labor or materials are covered by the said contract and any amendments, changes, change orders, additions, alterations, or modifications thereof, or 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 their Subcontractors, pursuant to Section 18806 of the Revenue and Taxation Code, with respect to such work and labor, the Surety will pay for the same, in an amount not exceeding the sum hereinabove specified, and also, in case suit is brought upon this bond, a reasonable attorney's fee to be fixed by the court.

This bond shall insure to the benefit of any of the persons named in Section 3181 of the California Civil Code, so as to give a right of action to such persons or their assigns in any suit brought upon this bond.

It is further stipulated and agreed that the Surety on this bond shall not be exonerated or released from the obligation of this bond by any change, extension of time for performance, addition, alteration or modification in, to, or of any contract, plans, specifications, or agreement pertaining or relating to any scheme or work of improvement hereinabove described or pertaining or relating to the furnishing of labor, materials, or equipment therefore, nor by any change or modification of any terms of payment or extension of the time for any payment pertaining or relating to any scheme or work of improvement hereinabove described, nor by any rescission or attempted rescission of the contract, agreement or bond, nor by any conditions precedent or subsequent in the bond attempting to limit the right of recovery of claimants otherwise entitled to recover under any such contract or agreement or under the bond, nor by any fraud practiced by any person other than the claimant seeking to recover on the bond and that this bond be construed most strongly against the Surety and in favor of all persons for whose benefit such bond is given, and under no circumstances shall Surety be released from liability to those for whose benefit such bond has been given, by reason of any breach of contract between the owner or Public Entity and original Contractor or on the part of any obligee named in such bond, but the sole conditions of recovery shall be that claimant is a person described in Section 3110 or 3112 of the California Civil Code, and has not been paid the full amount of their claim and that Surety does hereby waive notice of any such change, extension of time, addition, alteration, modification, rescission or attempted rescission, herein mentioned.

It is further stipulated and agreed that no final settlement between the Public Entity and the Contractor with reference to the work, shall abridge the right of any beneficiary hereunder whose claims may be unsatisfied.

This bond is executed and delivered to comply with requirements of the City of San José, and to comply with the provisions of Title 15, Chapters 5 and 7 of Part 4, Division 3 of the Civil Code of the State of California.

SIGNED AND SEALED this _____ day of _____, 20__.

PRINCIPAL

SURETY

Legal Company Name

By: _____

By: _____

Title: _____

Title: _____

By: _____

Title: _____

Address _____

Telephone _____

(Affix Corporate Seals)

(Attach Acknowledgments of both Principal and Surety signatures)

Approved by the City Attorney of the City of San José on the _____ day of

_____ 20 ____.

By: _____

Deputy

APPENDIX 16

(Intentionally Omitted)

APPENDIX 17

(Intentionally Omitted)

APPENDIX 18

Application and Certification for Payment

APPENDIX 19

Designation of Initial Representatives

City Representatives

1. Rodney Rapson, Division Manager, Public Works
2. Judy M. Ross, A.A.E., Assistant Director of Aviation, Airport Department

Additional Representatives designated in writing by the above two City Representatives.

Design Builder Representatives

1. Project Manager
2. Other Representatives so designated by the Design Builder

APPENDIX 20

DESIGN-BUILD COSTS TO BE REIMBURSED

The Design-Build Contract issued to the Design-Builder shall be paid based upon the Design-Build Lump Sum (Fixed) Price, as more fully described in the Schedule of Values, for the Work performed by the Design-Builder, including the Design-Builder's overhead and profit, but in no case in excess of the Lump Sum (Fixed) Price agreed to by the City and the Design-Builder at the time of the executing the Contract, unless adjusted by approved change orders during the Contract performance.

However, In the event of any additional work or changed work that is performed on a time & material, not to exceed (NTE) reimbursable Cost of the Work basis, the Cost of the Work payable to the Design-Builder is described as follows:

The term "Cost of the Work" shall mean costs necessarily incurred by the Design-Builder in the proper performance of the Work. Such costs shall be at rates not higher than those customarily paid at the place of the Project except with prior consent of the City. The Cost of the Work shall include only the items set forth in this Appendix 4 and 20.

20.1 CONSTRUCTION WORKER LABOR COSTS

20.1.1 Wages, burdens and fringes of construction workers directly employed by the Design-Builder to perform the construction of the Work at the site or, with the City's agreement, at off-site workshops. Wages, burdens & fringes are to be at actual cost and are fully auditable.

20.1.2 NOT USED

20.1.3 Wages, salaries, burdens and fringes of the Design-Builder's supervisory or administrative personnel engaged, at factories, workshops or on the road, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work.

Costs paid or incurred by the Design-Builder for taxes, insurance, contributions, assessments, training, and benefits required by law or collective bargaining agreements, and, for personnel not covered by such agreements, customary benefits such as sick leave, medical and health benefits, IT Charges, holidays, vacations, and pensions, provided that such costs are based on wages and salaries included in the Cost of the Work under Sections 20.1.1 through 20.1.5.

20.1.4. These costs shall be based upon Design-Builder's actual and auditable cost and will include all insurance modifiers, scheduled credits, premium discounts and other actual cost modifications. Unless expressly provided for in the Contract, bonuses and other discretionary compensation are specifically excluded from these costs. Wages, burdens & fringes are to be at actual cost and are fully auditable. No other costs are to be included as a payroll burden or fringe amount or other charge based on payroll. All other costs are to be billed at actual and auditable cost by the Design-Builder (i.e. safety, wages or costs of other personnel, etc.).

- 20.1.5 Workers compensation at the State workers compensation rate at the Design-Builder's actual and audited cost.
- 20.1.6 For purposes of calculating burdens and fringes in this Section, they shall include all actual payroll burdens, including, payroll taxes, health and welfare, all union benefits, medical insurance, life insurance, disability insurance and 401k and pension costs.

20.2 SUBCONTRACT COSTS

- 20.2.1 Payments made by the Design-Builder to Subcontractors and consultants in accordance with the requirements of the contracts.
- 20.2.2 Except for self-performed work performed by persons directly employed by Design-Builder as to be specifically approved by the City, Design-Builder shall not enter into any subcontract, contract, agreement, purchase order or any other arrangement of any kind ("Arrangement") for the furnishing of any portion of the materials, services, equipment rented for use on the project, equipment, tools, or any portion of the Work with any party or entity if such party or entity is an "Affiliated Entity", as defined below, unless such Arrangement has been approved in writing by the City, after full written disclosure by the Design-Builder to the City of such affiliation or relationship and all details relating to the proposed Arrangement. Disclosure by the Design-Builder to and agreement by the City, if agreed by the City, shall be in advance of the Design-Builder entering into any Agreement with any "Affiliated Entity". The term "Affiliated Entity" means any entity related to or affiliated with or having common ownership or management with the Design-Builder or with respect to which the Design-Builder has direct or indirect ownership or control, including, without limitation, any entity owned in whole or part by the Design-Builder; any holder of issued and outstanding shares of, or the holder of any interest in, the Design-Builder; any entity in which any officer, director, employee, partner or shareholder (or member of the family of any of the foregoing persons) of the Design-Builder or any entity owned by the contractor has a direct or indirect interest, which interest includes, but is not limited to, that of a partner, employee, or agent or shareholder.

At the City's sole discretion, the City shall not reimburse the Design Builder for any cost associated with any Arrangement with any Affiliated Entity, as defined above, unless the City has received full disclosure from the Design-Builder and given written approval of the Arrangement prior to the Design-Builder entering into any Arrangement.

20.3 COSTS OF MATERIALS AND EQUIPMENT INCORPORATED IN THE COMPLETED CONSTRUCTION

- 20.3.1 Costs, including transportation, of materials and equipment incorporated or to be incorporated in the completed construction.
- 20.3.2 Costs of materials described in the preceding Section 20.3.1 in excess of those actually installed but required to provide reasonable allowance for waste and for spoilage. Unused excess materials, if any, shall be handed over to the City at the

completion of the Work or, at the City's option, shall be sold by the Design-Builder; amounts realized, if any, from such sales shall be credited to the City as a deduction from the Cost of the Work.

- 20.3.3 Temporary utilities, including, but not limited to, power, fuel and water used during start-up and testing.
- 20.3.4 Design-Builder's General Conditions expenses. These General Conditions expenses include jobsite supervision, temporary jobsite offices, safety, travel, office equipment and supplies temporary latrines.
- 20.3.5 Design-Builder's Project Management/Construction Management expenses. These expenses include estimating, value engineering, constructability reviews and scheduling.

20.4 COSTS OF OTHER MATERIALS AND EQUIPMENT, TEMPORARY FACILITIES AND RELATED ITEMS

- 20.4.1 Costs, including transportation, installation, maintenance, dismantling and removal of materials, supplies, temporary facilities, machinery, equipment, and hand tools not customarily owned by the construction workers, which are provided by the Design-Builder at the site and used in the performance of the Work; and cost less salvage value on such items if not fully consumed, whether sold to others or retained by the Design-Builder. Cost for items previously used by the Design-Builder shall mean fair market value. City shall participate in the decision to purchase or rent the machinery equipment. If City decides that such items should be purchased, these items will be the property of City and will be returned to and retained by the City after completion of the work.
- 20.4.2 Rental, repair, operational maintenance, fuel, oil and gas charges for temporary facilities, machinery, equipment and hand tools not customarily owned by the construction workers, which are provided by the Design- Builder at the site, whether rented from the Design-Builder or others, and costs of transportation, installation, repairs and replacements, dismantling and removal thereof. Rates and quantities of equipment rented shall be subject to the City's prior approval. Other than specifically noted herein, rental rates of Design-Builder's own equipment shall not exceed eighty five percent (85%) of the current AED Manual charges, without Owner's prior written approval, and in no event shall the total of such rental charges exceed the depreciated fair market value of the equipment when first put into service less the depreciated fair market value when removed from service. Operating Costs (per AED), if any, are to be billed at actual cost.
- 20.4.3 Costs of removal of debris from the site.
- 20.4.4 Reproduction costs, costs of telegrams, facsimile' transmissions and long-distance telephone calls, mobile phones and service, postage and express delivery charges, telephone at the site and reasonable petty cash expenses of the site office.

20.5 MISCELLANEOUS COSTS

- 20.5.1 That portion directly attributable to this Contract of premiums for insurance and bonds, including, but not limited to, general liability, umbrella, professional and pollution insurance premiums. (If charges for self-insurance are to be included, specify the basis of reimbursement) All insurance and bond costs are to be at actual and auditable cost inclusive of all premium adjustments, credits, and / or rebates.
- 20.5.2 Sales, use or similar taxes imposed by a governmental authority that are related to the Work and for which the Design-Builder is liable.
- 20.5.3 Fees and assessments for the building permit and for other permits, licenses and inspections for which the Design-Builder is required by the Contract Documents to pay.
- 20.5.4 Fees of testing laboratories for tests required by the Contract Documents, except those related to nonconforming Work other than that for which payment is permitted by Section 20.7.2.
- 20.5.5 Deposits lost for causes other than the Design-Builder's negligence or failure to fulfill a specific responsibility to the City set forth in the Contract Documents.

20.6 OTHER COSTS

- 20.6.1 Other costs incurred in the performance of the Work if and to the extent pre-approved in writing by the City.
- 20.6.2 Profit and overhead, General Conditions, and Design as described in Appendix 4 and Section 12.2.1.4.
- 20.6.3 Costs associated with implementation of Design-Builder's Safety & Health Program. These costs include the costs for training, incentives, awards and celebrations (as approved in advance by the City) that are associated with the program and are a normal part of such programs on Design-Builder's other projects in the region, and the cost of pre-employment, post-accident and random substance abuse screening.

20.7 EMERGENCIES AND REPAIRS TO DAMAGED OR NONCONFORMING WORK

The Cost of the Work shall also include costs that are incurred by the Design-Builder:

- 20.7.1 In taking action to prevent threatened damage, injury or loss in case of an emergency affecting the safety of persons and property.
- 20.7.2 In repairing or correcting damaged or nonconforming Work executed by the Design-Builder or the Design-Builder's Subcontractors or suppliers, provided that such damaged or nonconforming Work was not caused by the negligence or failure to fulfill a specific responsibility to the City set forth in the Contract Documents of the Design-Builder or the Design-Builder's foremen, engineers or superintendents, or other supervisory, administrative or managerial personnel of the Design-Builder, or the failure of the Design-Builder's personnel to supervise adequately the Work of the Subcontractors or suppliers, and only to the extent that the cost of repair or correction is not recoverable by the Design-Builder from

insurance, Subcontractors or suppliers. However, in the event that the cause of damaged work is indeterminable, repair costs for such damage may be recovered from the contingency.

20.8 COSTS NOT TO BE REIMBURSED

The Cost of the Work shall not include:

- 20.8.1 Salaries and other compensation of the Design-Builder's personnel stationed at the Design-Builder's principal office or offices other than the site office, except as specifically provided in Sections 20.1.2 and 20.1.3.
- 20.8.2 Expenses of the Design-Builder's principal office and offices other than the site office, except as specifically provided in this Appendix 20.
- 20.8.3 Overhead and general expenses, except as may be expressly included in Appendix 4 and 20.
- 20.8.4 The Design-Builder's capital expenses, including interest on the Design-Builder's capital employed for the Work.
- 20.8.5 Rental costs of machinery and equipment, except as specifically provided in Section 20.4.2.
- 20.8.6 Except as provided in Section 20.7.2, costs due to the negligence of the Design-Builder or to the failure of the Design-Builder to fulfill a specific responsibility to the City set forth in the Contract Documents.
- 20.8.7 Except as provided in Section 20.6.1, any cost not specifically and expressly described in this Appendix 20.
- 20.8.8 Costs which would cause the Guaranteed Maximum Price, as adjusted by change orders, to be exceeded.
- 20.8.9 Bonuses and other discretionary compensation.

Appendix 21

Labor Peace Assurances And Employee Work Environment Report

I, _____, an authorized representative of _____, (name of Airport Business)

attach a copy of the following existing or planned programs that demonstrate a good work environment that prevents the disruption in services due to disputes with employees.

_____ Copy of Company Employee Handbook that includes information such as: terms of employment; performance appraisals; employee responsibilities; non-discrimination and anti-harassment policy; complaint resolution procedures; working hours and conditions; breaks; assignment of responsibilities; general rules of conduct; prohibited activities; disciplinary procedure; leaves of absence; drug and alcohol use; appearance, grooming and uniform policy; health and safety.

_____ Joint Labor-Management Committee

_____ Collective Bargaining Agreement

_____ Labor Neutrality Provision

_____ Card Check Provision

_____ Any other information, plan, benefits or programs undertaken by Airport Business to attract and retain qualified employees and assist in providing uninterrupted service through the Airport Business's workplace conditions and practices.

The above listed benefits and complaint procedure(s) will be maintained during the period of time work is performed at the Norman Y. Mineta San José International Airport. It is the intent of _____ to ensure that essential services and labor for

(name of Airport Business)

which it has been contracted will be provided efficiently and without interruption.

Signature

Title

Name of Airport Business

Date

EMPLOYEE BASIC BENEFITS

1. Indicate the basic benefits your workers receive.

Years of Service	# of Vacation Days	# of Sick Days	# of Personal Days
After 1 year			
After 5 years			
After 10 years			

Other: (Explain.)

Indicate the paid holidays your workers receive by placing check mark to the left of each.

<input type="checkbox"/>	New Year's Day	<input type="checkbox"/>	Independence Day	<input type="checkbox"/>	Christmas
<input type="checkbox"/>	Martin Luther King Jr. Day	<input type="checkbox"/>	Labor Day	<input type="checkbox"/>	Floating Holiday
<input type="checkbox"/>	Washington's Birthday	<input type="checkbox"/>	Veterans' Day	<input type="checkbox"/>	Other:
<input type="checkbox"/>	Memorial Day	<input type="checkbox"/>	Thanksgiving Day	<input type="checkbox"/>	Other:

2. Do you allow for unpaid leave? Yes, please briefly explain policy.
 No

COMPLIANCE WITH STATE AND FEDERAL WORKPLACE STANDARDS

Have any of the following State or Federal Regulatory agencies obtained final orders or final judgments finding a violation by your company of State or Federal law relating to the treatment of your employees?

1. California Department of Fair Employment and Housing (DFEH).

NO, our company has not had any final judgment or administrative order.

YES, our company has had final judgment(s) or administrative order(s).

Date of entry of final judgment or order: _____

Agency that obtained the order: _____

Attach a description of the nature of violation.

2. California Department of Industrial Relations (Cal OSHA).

NO, our company has not had any final judgment(s) or administrative order(s)

YES, our company has had final judgment(s) or administrative order(s).

Date of entry of final judgment or order: _____

Agency that obtained the order: _____

Attach a description of the nature of violation.

3. California Department of Industrial Relations (Minimum Wage, hours or working conditions) Labor Board

NO, our company has not had any final judgment(s) or administrative order(s).


YES, our company has had final judgment(s) or administrative order(s).

Date of entry of final judgment or order: _____

Agency that obtained the order: _____

Attach a description of the nature of violation.

**City of San José
DEPARTMENT OF PUBLIC WORKS
PROJECT MANAGEMENT MANUAL**

Subject: COST ESTIMATING PROCEDURE	Page 1 of 11	Number 103
	Effective Date 7/10/06	Revised Date
Approved: 	Responsible Office Administration Division	

PURPOSE

To establish a procedure for cost estimates prepared by the Department of Public Works.

BACKGROUND

The Department of Public Works prepares various types of cost estimates for a variety of purposes, departments and budgets. A formal procedure that documents current practices, incorporates standards and details a systematic approach will provide uniformity, reliability and accuracy to the preparation of cost estimates. This procedure is based on Council Policy # 12-1 adopted on August 22, 2000.

POLICY

It is the policy of the Department of Public Works that each Division that prepares construction estimates shall:

- A. Prepare construction estimates in accordance with this general procedure and other more detailed Division procedures pertaining to specialized types of construction.
- B. Each estimate shall have an executive summary attached that summarizes the costs; describes the type of estimate, states the scope of the project, and documents estimate approval process (See Section II: Preparation, Review and Approval of Estimates).
- C. File each estimate prepared in the appropriate Divisional file for future reference.
- D. Utilize inflation factors as determined by the Manager's Budget Office (MBO) or other documented source such as Engineering News Record in the absence of direction from the MBO.
- E. Document the purpose for the estimate.
- F. Review and approve each estimate at the appropriate level prior to submitting the estimates to the requestor or client department.
- G. Maintain historical record of construction estimates and construction proposals for comparison purposes.

I. TYPES OF ESTIMATES AND ASSOCIATED PROJECT MILESTONE/PHASE

Type	Estimate	Project Milestone/Phase
A	Program Estimate	Project Initiation
B	Preliminary Estimate	Planning/Programming
C	Budget Estimate	Design:
		Conceptual Design
		Schematic Design

Subject: CONSTRUCTION ESTIMATING PROCEDURE	Page 2 of 11	Number 103
	Effective Date 7/10/06	Revised Date

D	Engineer's Estimate	Construction Documents, Bidding & Contract Award
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Listed below are definitions for the four milestones/phases associated with Estimates A, B, C, & D:

PROJECT INITIATION:

This occurs when a project has been conceptually defined and usually before funds have been appropriated by the City Council. However, approval of the project must be communicated to the PW Department before work can begin. Notification is normally accomplished by the project appearing as a line item in the Capital budget or by a memorandum from the project sponsor if it is not a Public Works initiated project.

PLANNING:

Generally, the phase where the project is planned in detail (sometimes as a part of a master plan for a larger project) and should include program information from the major stakeholders, resulting in the development of a conceptual scope for the project.

DESIGN:

This includes both conceptual and schematic designs and a budget cost estimate. This phase usually includes review, feedback and approval by the client/project sponsor, community and/or user/operator. In this phase, 90% of the scope is determined and the preparation of the construction plans and specifications is underway.

CONSTRUCTION DOCUMENTS/BIDDING AND CONTRACT AWARD:

Construction drawings are finalized either by staff or a combination of staff and consultants and final review by project clients/operators is completed - final scope is determined. Plans and specifications for the bidding of the project are prepared. Bids for the construction of the project are solicited through advertisement, bids are opened, a determination of the lowest, eligible bidder is made and a construction contract is awarded by the Director (<\$100,000) or by City Council.

A. PROGRAM ESTIMATE

Based on:

- General description of the project
- Type of facility (e.g. Type I or Type II median)
- Costs developed by gross measurements such as, square footage of building, square footage of park, miles of sanitary sewer, miles of storm drain, miles of street, etc.

Typically used for:

- Projects proposed for the Five Year Capital Improvement Program in years two through five
- Feasibility Studies
- Council proposals for funding from Mayor's Office
- Department proposals for grant funding

Appendix 22

Subject: CONSTRUCTION ESTIMATING PROCEDURE	Page 3 of 11	Number 103
	Effective Date 7/10/06	Revised Date

Typically contains:

- Site Acquisition Costs
- Project Development Costs
- Preliminary Construction Costs
- Contingencies

Accuracy:

- ± 35%

Example: Program Estimate Components for New Civic Building

Known Component	Assumed Component	Unknown Component
Desired site	Cost of Land	Actual Cost of Land
	Size/Number of Buildings	Actual Size/Number of Buildings
	Cost per Square Foot (SF)	Actual Cost per SF
	Project Development Costs	Actual Development Costs
		Design Consultant Fees
		Facilities: Restrooms, Kitchen...etc
		Floor Plan
		Material Type/Equipment
		Utilities
		Actual Construction Costs

B. PRELIMINARY ESTIMATE

Based on:

- Planned sizes of project systems and functional areas
- Costs developed by general unit prices such as; square footage of different uses of a building (i.e., kitchen, classroom, assembly room, office, etc.), areas of park use (i.e., turf per acre, irrigation per acre) number of electroliers, miles of sanitary sewer, miles of storm drain, miles of water pipe, miles of street, number of signalized intersections, etc.
- Proposed Project Schedule

Typically used for:

- Projects proposed for the One Year Capital Improvement Budget and year one of Five-Year Capital Improvement Program
- Developing the next year's budget and allowing for further design

Typically contains:

- Site Acquisition Costs
- Design and Construction Management Costs
- Project Construction Costs

Appendix 22

Subject: CONSTRUCTION ESTIMATING PROCEDURE	Page 4 of 11	Number 103
	Effective Date 7/10/06	Revised Date

Accuracy:

- $\pm 20\%$ of the final project costs ("hard" and "soft" costs).

Example: Preliminary Estimate Components for New Civic Building

Known Component	Assumed Component	Unknown Component
Desired site	Cost of Land	Actual Cost of Land
Size/Number of Buildings	Cost per Square Foot (SF)	Actual Cost per SF
	Project Development Costs	Actual Development Costs
	Design Consultant Fees	Floor Plan
	Facilities: Restrooms, Kitchen...etc	Material Type/Equipment
	Landscaping/Site Improvements	Utilities
		Actual Construction Costs

C. BUDGET ESTIMATE

Based on:

- Current scope and schematic design work based on previous similar projects
- Costs developed by using unit prices based on quantities or lump sum estimates from plans
- Unit prices are developed from historical bid records, manufacturer's data, estimating handbooks, etc.
- Costs also include general items of work such as traffic control, general superintendence, insurance, bonds, mobilization, maintenance, etc.
- Actual Consultant Fees (Executed Consultant Agreement)

Typically used for:

- Development Review of design, Engineers Report, and transition to final design, etc.
- Evaluation of budget requirements or constraints
- Establish a final budget
- Calculating Inspection and Consultant Administration Fees
- Estimating Bond Amounts
- Analyzing various project alternatives

Typically contains:

- Site Acquisition Costs
- Estimated Design and Construction Management Cost
- Project Construction Costs: this estimate should include an inflationary factor that escalates the cost to the dollar value at mid-point of the construction schedule

Accuracy:

- $\pm 10\%$ of the final project costs ("hard" and "soft" costs).

Example: Budget Estimate Components for New Civic Building

Appendix 22

Subject: CONSTRUCTION ESTIMATING PROCEDURE	Page 5 of 11	Number 103
	Effective Date 7/10/06	Revised Date

Known Component	Assumed Component	Unknown Component
Desired site	Cost of Land	Actual Cost of Land
Size/Number of Buildings	Utilities	Actual Construction Costs
Cost per Square Foot		
Project Development Costs		
Design Consultant Fees		
Floor Plan		
Facilities: Restrooms, Kitchen		
Material Type/Equipment		
Landscaping/Site Improvements		

D. "ENGINEERS" ESTIMATE

Based on:

- Final construction documents, plans and specifications
- Costs developed by using unit prices based on material quantities from final construction documents and specifications
- Unit prices are developed from historical bid records, manufacturers data, estimating handbooks, comparison with other jurisdiction, review with industry representatives, engineering judgment
- Costs are included for general items of work such as traffic control, general superintendence, insurance, bonds, maintenance, etc. (typically referred to as "General Conditions")

Typically used for:

- Verification of compatibility with project budget
- Final project funding
- Approval of final plans and specifications
- Determination of reasonableness of bids submitted by contractors

Typically contains:

- Project Construction Costs

Accuracy:

- ±5% of the final project costs ("hard" and "soft" costs).

Example: Engineer's Estimate Components for New Civic Building

Known Component	Assumed Component	Unknown Component
Site		Actual Cost of Land
Size/Number of Buildings		Actual Construction Costs
Cost per Square Foot		Market Forces
Project Development Costs		
Design Consultant Fees		
Floor Plan		
Facilities: Restrooms, Kitchen		
Material Type/Equipment		

Appendix 22

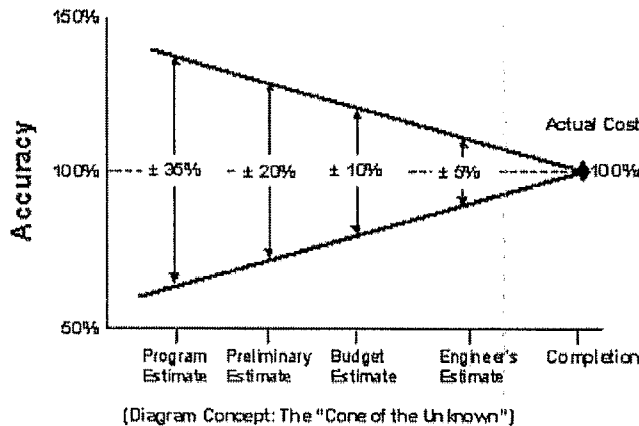
Subject: CONSTRUCTION ESTIMATING PROCEDURE	Page 6 of 11	Number 103
	Effective Date 7/10/06	Revised Date

Landscaping/Site Improvements
Cost of Land
Utilities

It should be noted that while the Engineer's Estimate attempts to forecast the cost of the proposed work, the estimate may not always closely correlate to the low bid. Variances are expected because of the nature of Public Works contracting. Items that contribute to these variances include:

- a) Errors by contractors in preparing their bids (i.e. both quantity takeoff and pricing errors)
- b) Competitive nature of bidding as a result of market conditions, number of contractors submitting bids, importance of the project to a particular contract or contractors.
- c) Accuracy of the drawings and subsequent interpretation of the drawings by the bidders

The difference between the types of estimates is in the accuracy of the estimate which is dependent upon what is known, what is assumed and what is unforeseeable at the time when the estimate is prepared. Generally, the range of accuracy of the type of estimate would be anticipated as depicted below:



It should be noted that the accuracy and reliability of the estimate depends on recent experience with similar projects, the complexity of the project, type of construction (i.e. new, remodeling or reconstruction), age of existing facilities, and the level of refinement of the scope of the project and/or the project construction documents. To a large extent, the accuracy of an estimate is dependent upon the level of detail and refinement (scope) of information available at the time when the estimate is prepared.

II. PREPARATION, REVIEW AND APPROVAL OF TYPES OF ESTIMATES

Each type of estimate should be reviewed and approved as outlined in the table below.

<u>TYPE</u>	<u>PREPARATION</u>	<u>REVIEW</u>	<u>APPROVAL</u>
A	Project Manager or Section Manager	Section Manager Client	Division Manager
B	Project Manager	Section Manager Client	Division Manager
C	Project Manager	Section Manager	Division Manager

Appendix 22

Subject: CONSTRUCTION ESTIMATING PROCEDURE	Page 7 of 11	Number 103
	Effective Date 7/10/06	Revised Date

D Project Manager

Client
Section Manager Director
Division Manager
Client

GENERAL PROCEDURE:

The general procedure for preparing construction estimates shall be as outlined below. This outline shall be considered the minimum procedure. It may be amplified and refined by each Division if required in accordance with the type of estimates being prepared.

- A. Determine and document the purpose for preparing the estimate (i.e. scope, source, budget worksheets, client request memorandum, etc.).
- B. Determine the type of estimate to be prepared (Program (A), Preliminary (B), Budget (C) or Engineer's (D)).
- C. Determine the projected start date of construction:
 - 1. This shall be the start date as requested by the client, the project's interrelationship to another project; or
 - 2. This shall be the end of the fiscal year in absence of a requested start date.

D. Prepare the estimate:

- 1. Determine the quantities and items of work to be estimated;
- 2. Determine unit prices for quantities and items of work;
- 3. Document quantity takeoffs and unit price estimates.
- E. Submit estimate for check, review and approval to appropriate individuals dependent on type of estimate prepared.
- F. Transmit and/or utilize the estimate for its intended purpose.
- G. File estimate in project file or Division Historical File as appropriate.

The estimate should be presented as a report with three components: a memorandum, executive summary and calculation sheet (Attachments A, B and C) or in a standard format appropriate for the type of estimate being prepared. The summary page should be prepared only after the details of the estimate have been fully completed.

DEFINITIONS:

- 1. **Property Acquisition**
This is the cost cost to obtain the land, title, interest or easement upon, over, or under which the project is to be constructed.
- 2. **Demolition and Site Clearance**
This is the cost of the removal of facility improvements, hazardous waste, soil contamination, et cetera, which are required to be removed before the start of construction.
- 3. **Master Plan/Program/Preliminary Design**
This is the cost of preparing the master plan and preliminary design alternatives. Included are engineering and design costs from the Program Phase to the beginning of the Design Phase.
- 4. **Design**
This is the cost of all design activities from Preliminary Design through design

Subject: CONSTRUCTION ESTIMATING PROCEDURE	Page 8 of 11	Number 103
	Effective Date 7/10/06	Revised Date

development and construction documents to the award of the construction contract. Included in this cost are the bid, award & contract processing costs, which are generally between \$25,000 - \$50,000 (depending on complexity & community involvement) and are not incorporated in overhead or consultant costs.

5. **Construction Management**
This is the cost of all construction management activities from processing of the construction contract (bid/award) to final acceptance of the project. This cost should include cost factors for projects that require on-going reporting and/or invoicing to an outside agency (such as Caltrans, utility company's fee, CDBG...etc)
6. **Construction**
This is the cost paid to contractor to build/construct the project according to the plans and specifications.
7. **Inflation (Escalation)**
This is the anticipated increase in cost for goods and services dependent on when the project is to be constructed. The inflationary factor will increase the cost of construction to the mid-point of the construction schedule.
8. **Contingency**
This is the estimated cost of requests for changes by the client department or unanticipated and unforeseen modifications to the project in the construction phase, which are necessary to complete the project.
9. **Furniture, Furnishings and Equipment**
This is the estimated cost is for items that are to be bid separately from the construction contract and are part the project scope and overall budget.

III. HOW TO CALCULATE COST ESTIMATES:

A. PROPERTY AND LAND

1. **Site Selection:**
 - 1a. Includes costs incurred for site(s) investigation and selection
2. **Property Acquisition**
Two levels of accuracy for cost and schedule estimating for site acquisition are available from the Public Works Real Estate Division.
 - 1a. Order of Magnitude Estimate: This Real Estate estimate:
 - Can be used for Program & Preliminary planning purposes with a \pm 50% range of accuracy.
 - Is prepared by Real Estate Division staff as an approximation of a subject property's value based upon data already "on hand" which staff believes suggests values for similar properties. It does not include collection of new data or any identification of comparable properties.
 - Includes a site visit with Real Estate staff and Project manager.
 - Takes approximately two weeks to develop.
 - 1b. Preliminary Estimate: This Real Estate estimate:
 - Can be used for the Budget and the Engineer's cost estimate with a range of accuracy

Subject: CONSTRUCTION ESTIMATING PROCEDURE	Page 9 of 11	Number 103
	Effective Date 7/10/06	Revised Date

of \pm 20%.

- Is an estimate of property values as determined by Real Estate using comparable sales information regarding the project site.
- Takes approximately four weeks to develop.

Both of the above estimates would typically contain the following types of information:

- Land cost
- Relocation costs (if applicable)
- Estimate of Real Estate staff time and costs to accomplish the project
- Consultant services (appraisal)
- Special issues (relocation if the property is occupied, potential toxins, etc)

To obtain either of the above estimates, submit a written request to the Real Estate Division containing the following information:

- A description of the property for which an estimate is needed (site map, plat map, etc.)
- Description of the rights necessary (fee, easement, lease, etc)
- Charge number for staff time

This category is included in construction per Task Code/Project Phases discussions.

B. PROJECT DEVELOPMENT

3. Master Plan/Program/Preliminary Engineering

This should be estimated on past similar projects or a direct estimate if project specific elements can be determined. This is an estimate of what the Master Plan would cost to complete. It includes pre-design consultant fees, environmental review and project administration.

C. DESIGN AND DESIGN MANAGEMENT *This category has been renamed per Task Code/Project Phases discussions.*

4. Design:

This should be estimated based on comparable project percentages. The fee to a consultant should be in the 12 - 25% range of construction cost for building a project depending on the complexity of the project and economy of scale. Contract processing costs are included in this category and are generally between \$25,000 to \$50,000 depending upon complexity and community involvement (see Attachment 3: Summary of costs). The total design amount including Public Works staff time should be in the 10 - 20% range of the construction estimate. In the absence of specific factors, use 15%. Sub Consultants should be considered on a project specific and as required basis, such as: Aerial Topography, Soil Investigation, Cost Estimator, Archeological Survey/Monitoring, and Toxic Investigation.

5. Construction Management:

This should be estimated based on comparable projects. The fee for a consultant construction manager should be estimated. For State, Federal, or bond funded projects, reporting and/or

Appendix 22

Subject: CONSTRUCTION ESTIMATING PROCEDURE	Page 10 of 11	Number 103
	Effective Date 7/10/06	Revised Date

invoicing costs should be included. The total construction management amount should be in the 12 - 20% of construction costs. In the absence of specific factors, use 15% of the construction cost.

6. Department Home Office Overhead:

This should be in the 2-5% range of construction cost. In the absence of a specific factor, use 3%.

7. Citywide Overhead:

Finance prepares the calculations to determine the overhead rate. For FY 00-01, the rate is 40% [note, this rate varies depending on which fund is involved] of direct City labor costs. These costs are already included in the estimate for items 4, 5 and 6.

D. CONSTRUCTION AND CONSTRUCTION MANAGEMENT

8. Construction:

This should be estimated to the level of detail required dependent on whether a Program, Preliminary, Budget, or Engineer's Estimate is being prepared.

8a. This should also include appropriate cost for the contractor general conditions, bonds, insurance, profit, and overhead. (Typically referred to as General Conditions). General Conditions should be estimated at approximately 10% - 20% of the construction cost. In the absence of specific factors, use 15%.

8b. Demolition and Site Clearance:

This should be estimated on a unit price or lump sum basis. This may include contamination clean up which should be based on the previous use of the property. This should also include site security and dust control if required.

8c. Cost for project inspection should also be included.

9. Inflation

This should be estimated to the mid-point of construction with the most current rate applied. Current rate can be obtained through the Manager's Budget Office (MBO) or other documented source such as Engineering News Record in the absence of direction from the MBO. The source for the projected inflation rate should be referenced.

UNDER CONSTRUCTION AND CONSTRUCTION MANAGEMENT????

10. Contingency

The contingency percentage will vary depending upon the level of information available for estimating. Generally, more specific information can allow a lower contingency amount. This is a project contingency and should include both design and construction contingencies. By percentage of construction cost, the range should be 10% for design and 10% for construction.

E. POST CONSTRUCTION

11. Furniture, Furnishings and Equipment

12. Mitigation

13. Record Drawings/As-Builts

14. Litigation/Claims

Appendix 22

Subject: CONSTRUCTION ESTIMATING PROCEDURE	Page 11 of 11	Number 103
	Effective Date 7/10/06	Revised Date

15. Project close-out/acceptance

16. Other

Project specific costs not covered in items 1-11.